IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.36066 of 2015 &
M.P.No.1 of 2015

Venkataramanaa Food Specialities Ltd.,
No.20/14 Ammankoil Street,
Chennai-600 026. ... Petitioner

Vs

Assistant Commissioner(CT),
Vadapalani Assessment Circle,
Chennai-6. ... Respondent

Writ petition filed under 226 of the Constitution of India for issuance of writ of Certiorari calling for the records of the respondent in order dated 30.07.2015 in TIN.33131463750/2012-13 and consequential notice dated 29.09.2015 in TIN No.33131463750/2012-13 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader (T)

ORDER

Heard the learned counsel for the petitioner and Mr. S. Kanmani Annamalai, learned Additional Government Pleader (T) for the respondent and with their consent, the main writ petition itself is taken up for hearing at the admission stage itself.

2. This writ petition has been filed challenging the impugned proceedings of the respondent to call for the records in TIN.33131463750/2012-13 dated 30.07.2015 and consequential notice in TIN No.33131463750/2012-13 dated 29.9.2015 and quash the same.

3. The petitioner is a manufacturer and dealer of snacks, savouries and ready mix food products under the reputed brand names Peppy, Piknik etc. The petitioner is also having manufacturing plants in Thane, Gwalior and Puducherry and

trading Depots in Delhi, Bangalore and Chennai. Being a registered dealer with the respondent, the petitioner has been filing its VAT returns regularly and paying tax in accordance with law. While so, the respondent has issued a notice dated 11.11.2013 proposing to revise the petitioner's assessment for the year 2012-2013 and in response to the said notice, the petitioner filed a detailed reply along with document on 29.11.2013. Without considering the same and affording any opportunity, the respondent confirmed the proposals in its impugned order dated 30.07.2015. Hence the petitioner is before this Court.

4. According to the learned counsel for the petitioner, the respondent has wrongly claimed in his impugned order that the petitioner was called for a personal hearing vide notices dated 31.12.2014 and 07.07.2015, but actually no such notices were served on the petitioner and the statement mentioned in the impugned order in respect of affording an opportunity of personal hearing is false. Therefore, according to him, the impugned order passed by the respondent is in violation of principles of natural justice for failure to grant the petitioner, an opportunity of personal hearing. Further the impugned order passed is in violation of the terms of Section 22(4) of TNVAT Act which stipulates that before taking action, the dealer should have been given a reasonable opportunity of being heard.

5. Learned counsel for the petitioner further submitted that a notice dated 11.11.2013 alone was issued, for which, the petitioner filed a detailed objections on 29.11.2013. Without considering the same, the impugned order came to be passed by wrongly observing that the petitioner was given opportunity of personal hearing by the notices dated 31.12.2014 and 7.7.2015. Hence he sought to quash the impugned order.

6. It is apparent that while passing the assessment order dated 30.07.2015, it is observed that the dealer was given an opportunity of personal hearing by the respondent by its notice dated 31.12.2014 and 7.7.2015, which fact is stoutly refuted by the learned counsel for the petitioner. Hence, the learned Additional Government Pleader was directed to get instructions in this regard.

7. The learned Additional Government Pleader, on instructions, fairly submitted that inadvertently without considering the objections by wrongly mentioning the date of hearing as 31.12.2014 and 7.7.2015, the respondent passed the impugned order and requested to issue necessary direction.

8. The fair submissions made by the learned Additional Government Pleader is recorded.

9. In view of the above, the impugned order cannot be sustained. Accordingly, the same is set aside and the matter is remitted back to the respondent for passing appropriate order after affording due opportunity of personal hearing to the petitioner. The respondent is directed to fix a date within two weeks from the date of receipt of a copy of this order and communicate the same to the petitioner well in advance. On such receipt of the communication, the petitioner shall appear for personal hearing on the said date without fail. Thereafter, necessary orders on merits and in accordance with law be passed within a period of six weeks. No costs. Consequently, the connected M.P.No.1 of 2015 is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

msr
To
The Assistant Commissioner(CT),
Vadapalani Assessment Circle,
Chennai-6.

+1 cc to M/s.Adithya Reddy, sr.62171
+1 cc to Special Government Pleader, sr.62210

W.P.No.36066 of 2015 &
M.P.No.1 of 2015

ad co
kra 07.12.2015