IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2015

CORAM

The Hon'ble Mr.Justice R.Mahadevan

Writ Petition No.37514 of 2015

and

M.P.No.1 of 2015

M/s.Hebe Healthcare Pvt. Ltd.,
rep. by its Managing Director,
Mr.S.Venkataraman,
New No.83, Old No.35 -D,
Kamaraj Avenue, II Street,
Adyar, Chennai - 600 020. ... Petitioner

Vs.

The Commercial Tax Officer,
Adyar Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028. ... Respondent

Prayer:-

Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for records of the ex parte proceedings of the respondent in TIN/33430961125/2013-14 - CST/646971 and to quash the proceedings dated 26.08.2015, as illegal and against the principles of natural justice and further, to direct the respondent to entertain the Petition filed under Section 21 (6) (a) & 84 of TNVAT, Act 2006 in respect of the assessment year TNVAT/2013-14.

For Petitioner : Mr.K.Venkatasubramanian
For Respondent : Mr.S.Manoharan Sundaram
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuance of Writ of Certiorarified Mandamus, to quash the proceedings in TIN/33430961125/2013-14 - CST/646971 dated 26.08.2015, issued by the respondent-Commercial Tax Officer, as being contrary to the principles of natural justice, and to direct the respondent to entertain the Petition filed by the petitioner under Section 21 (6) (a) & 84 of TNVAT, Act 2006 in respect of the assessment year 2013-2014.

2. The case of the petitioner, as stated in the affidavit, filed in support of this Writ Petition, in short, is that the petitioner is a private limited company, registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. It is engaged in the business of retail and wholesale distribution of Medical Equipments and Accessories. Whileso, the respondent issued a notice, dated 17.07.2015, proposing to make reversal of input tax credit for the assessment year 2013-2014, for the reason that the petitioner has effected inter-state sales to the unregistered dealers and the transactions are not supported by 'C' forms. On receipt of the said notice, the petitioner filed objections, dated 18.08.2015 and 20.08.2015, enclosing a detailed statement, showing the comparative details of reversal of input tax credit on the inter-state sales effected to unregistered dealers and also the transactions covered by CST sales. But, the respondent, without proper appreciation of facts and averments assigned in the objections, passed the impugned order, dated 26.08.2015, thereby, confirming the proposals made in the notice, dated 17.07.2015. Challenging the said order, dated 26.08.2015, the petitioner has filed the present Writ Petition.

3. Learned counsel appearing for the petitioner has submitted that though the petitioner has filed a reply to the notice, dated 17.07.2015, the respondent, without adverting to the same, passed the impugned order, without even affording an opportunity of personal hearing to the petitioner, hence, the learned counsel submitted that the impugned order is liable to be set aside.

4. When the matter was posted for admission, the learned Additional Government Pleader for the respondent was directed to get instructions. Today, when the matter is taken up, the learned Additional Government Pleader has produced a communication of the Assistant Commissioner, Adyar Assessment Circle, Chennai, dated 26.11.2015, addressed to the Special Government Pleader, High Court, Madras, wherein, it is stated that, if any of the statements are available and able to be correlated with the returns filed by the dealer, (viz., the petitioner herein), the same would be considered by the Assessing Authority.

5. In view of the above, the said communication is placed on record and the petitioner is directed to file statements together with requisite documents, as sought for by the Assessing Authority within a period of two weeks from the date of receipt of a copy of this order. On receipt of such

statements together with supportive documents, the respondent-Assessing Authority is directed to consider the same and pass necessary orders within a period of six weeks, after affording an opportunity of personal hearing to the petitioner.

5. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Adyar Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028.

+1 cc to Mr.K.VenkataSubramanian Advocate sr.65366
+1 cc to Special Government Pleader Taxes, High Court Madras sr.65364

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aa31/12/2015