IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.3.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7836 of 2015
and MP.No. 1 of 2015

GLO Colour Lab Pvt. Ltd
Represented by T.S.Ramanan
Managing Director
112 Cross Cut Road
Gandhipuram Coimbatore - 641 012 ...Petitioner

Vs.

The Assistant Commissioner (CT)
Ramnagar Circle
Coimbaore ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records on the file of the respondent in TIN No.33671981433/2014-2015 dated 10.2.2015 and to quash the same.

For Petitioner :Mr. N.Sripraksh

For Respondents :Mr.V.Haribabu
Additional Government Pleader

O R D E R

The above writ petition has been filed challenging the impugned order dated 10.2.2015.

2. The main ground raised by the petitioner company is that an opportunity was not given to them to clarify the expression ''sale" as the said term inlcudes a purchase by way of transfer of right to use of goods. According to the petitioner company, the reasons given in the impugned order is different from the reason given in the notice. Therefore, according to the petitioner, the respondent has not followed the principles of natural justice before passing the impugned orders.

3. The learned Additional Government Pleader submtited that the purchases by way of leasing are not entitled for input tax credit. The learned Additional Government Pleader further submitted that the respondent has passed the impugned order after considering the reply submitted by the petitioner. Therefore, according to the learned Special Government Pleader, the impugned order is correct and as such, no interference is warranted by this Court.

4. Heard the learned counsel for the petitioner and the learned Special Government Pleader for respondent.

5. The main grievance of the petitioner company is that before passing the impugned order, they were not given an opportunity to explain their case. Prima facie, it is clear that no such opportunity was given to the petitioner before passing the impugned order.

6. In such view of the matter, I am inclined to set aside the impugned order only on the ground that oportunity of personal hearing was not given to the petitioner before passing the impugned order. Accordingly, the impugned order is set aside and the matter is remitted back to the authority for fresh consideration. The petitioner is directed to appear before the authority concerned on 04.5.2015 along with objections and documents, if any,and on such appearance, the respondent shall consider the objections raised and documents produced by the petitioner and pass fresh orders in accordance with law. The petitioner is also directed to pay 10% of the tax demanded by the respondents, without prejudice to their right, on or before 30.4.2015.

7. It is needless to state that the petitioner will not be issued any fresh show cause notice. If the petitioner fails to appear before the authority on 04.5.2015 and to pay the amount as stated supra, the impugned order shall stands restored.

8. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Asst. Registrar
Dt: 24/3/2015

/true copy/

Sub Asst. Registrar.

To

The Assistant Commissioner (CT)
Ramnagar Circle
Coimbaore

+ 1 cc to Mr.N.Inbarajan, Advocate SR 15512

+ 1 cc to Special Govt.Pleader (Taxes) SR 15802

msm(co)
prk24/3