IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.3.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9403 of 2015
and MP.No.1 of 2015

Tvl. Sun Oil Trade
Represented by its Proprietor
No.5/17, Raman Nagar,
Lakshmipuram, Kolathur
Chennai -600 099 ...Petitioner

Vs.

The Assistant Commissioner (CT)
Surappattu Assessment Circle
Chennai -600 099 ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus calling for the records of the respondent in TIN 33141367375/2012-13 dated 20.02.2015 and to quash the same as illegal, unconstitutional and to direct the Respondent to pass fresh orders after granting an opportunity to the petitioner firm to produce their books of account.

For Petitioner :Mr. A.Ravichandran

For Respondents :Mr.Manoharan Sundaram
Additional Government Pleader

ORDER

The petitioner has come forward with this writ petition to quash the order dated 20.2.2015 passed by the respondent in TIN 33141367375/2012-13 and to direct the Respondent to pass fresh orders after granting an opportunity to the petitioner firm to produce their books of account.

2. The petitioner is the dealer in Edible Oils at Chennai. The petitioner filed their monthly returns for the year 2012-2013. On verification of Check Post Data, the respondent found that the petitioner Firm had effected interstate purchase of edible oil from Tvl.Bhoomi Proteins, Gujarat, for a sum of Rs.25,35,030/- during the month of February 2013. However, in the monthly returns, the petitioner reported NIL purchase. Therefore, the respondent issued notice proposing to levy tax and penalty in terms of Section 27 (C) of the TNVAT Act, 2006 and the petitioner was asked to submit

explanation. On receipt of the notice, the petitioner sought for extension of time on 17.12.2014 by 15 days. Thereafter, the petitioner Firm sent another representation dated 02.1.2015 seeking further time of 15 days to submit necessary documents. Further, according to the petitioner Firm, by letter dated 23.1.2015, they had enclosed all the documents along with explanation. According to the petitioner Firm, without considering the entire request, the respondent has passed the order dated 20.2.2015 which is impugned in this writ petition.

3. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4. On a perusal of the entire papers, it appears that the petitioner Firm has not furnished details and they have stated that they have to get documents from Bhoomi Proteins. The petitioner has produced some other documents along with letter dated 23.1.2015. However, the authority has not considered the same and passed the impugned order without affording an opportunity of being heard.

5. Further, it appears that the though the petitioner Firm sought for 15 days time stating that they have to get documents from Bhoomi Proteins, no further representation has been sent by them. Therefore, the respondent has passed the impugned order. Admittedly, an opportunity of personal hearing was not given to the petitioner Firm before passing the impugned order.

6. In such circumstances, I am inclined to set aside the impugned order only on the ground that the petitioner Firm was not given an opportunity of personal hearing. Accordingly, the impugned order is set aside and the matter is remitted to the authority for fresh consideration.

7. The learned counsel for the petitioner fairly submitted that the petitioner Firm is willing to pay 5% of the tax amount without prejudice to their right.

8. The petitioner Firm is directed to get documents from Bhoomi Proteins and produce the same before the authority concerned on 20.4.2015 along with objections and any other documents, if any. On that date, the authority is directed to hear the petitioner and pass fresh orders on merits and in accordance with law, within a period of four weeks thereafter. In the meantime, the petitioner Firm is directed to deposit 5% of the demanded tax amount to the authority on or before 20.4.2015. If the petitioner fails to comply with the same on or before 20.4.2015, the authority is at liberty to proceed with the matter in accordance with law. The respondent is also directed to get documents from the Check Post and consider the same before the passing the order.

9. The writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
Surappattu Assessment Circle
Chennai -600 099.

1 cc to Government Pleader,Sr.No18223
1 cc to Mr.A.Ravichandran ,Advocate, SR.No.18098

W.P.No.9403 of 2015

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pmk.8.4.2015