IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.4563 of 2014
and
M.P.No.1 of 2014

Tvl. G.P.Chemicals
rep. by its Proprietrix Smt.M.Gowri ...Petitioner

Vs.

The Commercial Tax Officer,
Bhavani Assessment Circle,
Bhavani. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records on the files of the respondent in CST No.430459/06-07, dated 27.12.2013, and to quash the same.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Heard Mr.R.Senniappan, the learned counsel appearing on behalf of the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) for the respondent.

2. In this Writ Petition, the petitioner has challenged the Order of Assessment, passed under the provisions of Central Sales Tax Act, 1956, dated 27.12.2013.

3. The only ground on which, the impugned Order is challenged, is by contending that the impugned order has been passed based on a different ground, than what was proposed in the Show Cause Notice, dated 11.11.2013. It is not in dispute that the petitioner did not file any objections to the Show Cause Notice, but, it is the petitioner's submission that, on receipt of the Show Cause Notice, they appeared before the Authority, and produced 'C and E1 Forms', and to establish the same, the petitioner produced a Tapal Delivery Extract, showing that 'C and E1 Forms' have been produced. However, while the respondent, completed the assessment, has dealt with the transit sales and confirmed the proposal made in the Show Cause Notice.

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4. From the para-wise comments given by the respondent to the learned Additional Government Pleader, it is seen that the respondent has accepted the fact that they have received 'C and E1 Forms', and if there is any discrepancies, the respondent should have afforded an opportunity to the petitioner to appear in person and explain the matter, as the Show Cause Notice, dated 11.11.2013, did not explicitly refer to the allegations, which have been made against the petitioner in the impugned Order. This is sufficient to hold that the impugned Order has been passed in violation of principles of natural justice.

5. For the aforesaid reasons, the Writ Petition is allowed, the impugned Order is set aside, and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sd

To

The Commercial Tax Officer,
Bhavani Assessment Circle,
Bhavani.

+1 cc to the Government Pleader (Tax) sr 63119
+1 cc to Mr.R.Senniappan Advocate sr 62702

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