IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1592 of 2016 & WMP.No.1354/2016

M/s.Sree Shanthosh Steels Pvt. Ltd.
rep. by its Director P.K.P.Narayanamurthy
No.132/71, Rasappa Chetty Street, Parrys,
Chennai 600 003. .. Petitioner

V.

1.The Assistant Commissioner (CT),
Moore Market Assessment Circle,
No.38/49, Rajaji Salai,
Chennai - 600 001.

2.The Commercial Tax Officer,
Tondiarpet Assessment Circle,
No.19 & 20, Kummalamman Koil Street,
Tondiarpet, Chennai - 600 081. .. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the second respondent in CST.63968/13-14 dated 17.12.2015 and quash the same and direct the second respondent to grant concessional rate of tax at 2% instead of higher rate of tax at 14.5% on interstate sales covered by valid 'C' Forms.

For Petitioner .. Mr.P.Prithvi Chopda

For Respondents 1 & 2.. Mr.V.Hari Babu
Additional Government Pleader

ORDER

Heard Mr.P.Prithvi Chopda, learned counsel for the petitioner; Mr.V.Hari Babu, learned Additional Government Pleader accepting notice for the respondents and with their consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner, who is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and Central Sales Tax Act, 1956, is before this Court challenging the order of assessment passed by the 2nd respondent dated 17.12.2015 under the provisions of the Central Sales Tax Act, 1956.

3.The only issue raised by the petitioner is with regard to the concessional rate of tax at 2% instead of 14.5% on interstate sale. The reason why the 2nd respondent has imposed tax at the rate of 14.5% on interstate sale as it was not covered by C Forms. A notice was issued by the 1st respondent, who was the original Assessing Officer of the petitioner, on 29.12.2014 stating that the petitioner/dealer has not filed C Forms, but availed the benefit of concessional rate of tax at 2%. Therefore, an opportunity was given to the petitioner to file his objections and produce the necessary C Forms. In response to the notice, the petitioner sent a reply on 14.01.2015 producing C Forms and sought for eight weeks time to furnish the balance C Forms from the outstation dealers. Thereafter, the jurisdiction was vested with the 2nd respondent, who issued a notice dated 27.10.2015, proposing to disallow the claim for exemption on the ground that C Forms have not been produced and also proposed to reverse the Input Tax Credit. The petitioner is said to have given a reply dated 07.12.2015 sent by registered post on 14.12.2015 enclosing (1) Copy of the letter dated 14.01.2015 along with the details of C Forms; (2) 3 original C Forms along with the details of balance interstate sale; and (3) Statement of interstate sales as per accounts and returns. According to the petitioner, the office of the 2nd respondent has received the postal cover on 15.12.2015 vide Postal Acknowledgment Card. The 2nd respondent authority has passed the impugned order on 17.12.2015.

4.Since the Writ Petition is proposed to be disposed of at the admission stage, the question as to whether the C Forms have reached the office of the 2nd respondent or not cannot be considered at this juncture. However, if the C Forms have already been received by the office of the 2nd respondent, then, the 2nd respondent should examine the same and if found to be in order, proceed therefrom. Further, the learned counsel for the petitioner points out that the nature of business carried on by the petitioner has been shown to be Paints & Hardwares whereas they are dealers in Iron and Steel. These aspects of the matter should also be considered by the authority.

5.However, on the above grounds, this Court is not inclined to quash the impugned proceedings, but to direct the petitioner to treat the impugned proceedings as a show cause notice and he is directed to submit a representation setting out all facts referred to supra and such representation shall be submitted with the 2nd respondent within a period of one week from the date of receipt of a copy of this order and on receipt of the representation, the 2nd respondent shall consider the same and afford an opportunity of personal hearing to the petitioner and take a final decision on merits and in accordance with law within a period of three weeks thereafter.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Sgl

To

1.The Assistant Commissioner (CT),
Moore Market Assessment Circle,
No.38/49, Rajaji Salai,
Chennai - 600 001.

2.The Commercial Tax Officer,
Tondiarpet Assessment Circle,
No.19 & 20, Kummalamman Koil Street,
Tondiarpet, Chennai - 600 081.

+1 CC to Mr.Pramodkumar Chopda, SR.No.3052.

+1 CC to Special Government Pleader, (Taxes) SR.No.3194.

W.P.No.1592 of 2016

MSM(CO)
SL 02/02/2016