In the High Court of Judicature at Madras

Dated : 20.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.26055 of 2015 & MP.No.1 of 2015

M/s.Arjun Ply and Veneers Pvt. Ltd., rep.by its Authorized Signatory ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Cholavaram Assessment Circle,
Chennai-52.

2.The Assistant Commissioner (CT),
Ponneri Assessment Circle,
Ponneri, Thiruvallur District. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the first respondent in his proceedings in TIN No.33711701663/2013-14 dated 13.4.2015, quash this order, which is passed without jurisdiction and direct the first respondent to release the bank attachment made on 15.6.2015 and to provide an opportunity of personal hearing to the petitioner in this case.

For Petitioner : Mr.C.Bakthasiromani
For Respondents : Mr.V.Haribabu, AGP

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the files of the second respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the Act), challenged the order of assessment passed by the first respondent.

3. The ground raised by the petitioner is that they are the assessee on the file of the second respondent. While so, they received a notice from the first respondent dated 11.12.2014

calling for the bills of entries and invoice copies for the imports effected by the petitioner for the assessment year 2013-14. The petitioner sent a reply dated 29.12.2014 to the second respondent requesting to send the copies of all the returns, etc., to the first respondent or to inform the first respondent that the petitioner is doing business within the jurisdiction of the second respondent. This letter has been received by the office of the second respondent on 29.12.2014 itself as could be seen from the letter delivery book, which contains the seal and signature. Thereafter, the first respondent proceeded to issue another notice, completed the assessment and passed the impugned order of assessment.

4. The learned counsel for the petitioner submits that even till date, the petitioner has been filing their returns and paying taxes to the second respondent, in whose jurisdiction, they are carrying on business.

5. It is seen that the petitioner is put to this prejudice on account of the fact that there is a re-organization of the jurisdiction of assessment circles pursuant to G.O.Ms.No.23 Commercial Taxes and Registration (A2) Department dated 24.2.2014. If that be the case, the first respondent should have called for the entire files or in the alternative, the second respondent should have forwarded the files to the first respondent and the reasons assigned by the first respondent in the written instructions to the Special Government Pleader can hardly be accepted as reasons for passing an ex parte assessment order.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the first respondent, who is directed to address the second respondent to forward the files pertaining to the petitioner, issue a show cause notice to the petitioner after receipt of files from the second respondent, receive the objections of the petitioner, afford an opportunity of personal hearing and thereafter complete the assessment in accordance with law. No costs. Consequently, the above MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1.The Assistant Commissioner (CT), Cholavaram Assessment Circle,
Chennai-52.

2.The Assistant Commissioner (CT), Ponneri Assessment Circle,
Ponneri, Thiruvallur District.

+ 1 cc to Mr.C.Bakthasironmani, Advocate SR 34255

ad(co)
prk30/6

WP.No.26055 of 2015
and MP.No.1 of 2015