In the High Court of Judicature at Madras

Dated : 07.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19092 of 2016 and WMP.No.16633 of 2016

M/s.Forech India Limited, rep.by
Ashok Tayal, Vice President
(Finance & Administration) &
Authorized Signatory, Cheyyar ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Ranipet (Out) Check Post, Serkkadu,
Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in GDN.No.157/2012-13 dated 26.4.2016 received on 3.5.2016 and quash the same as being violative of principles of natural justice and without jurisdiction and hence, invalid and illegal.

For Petitioner : Mr.C.Venkatraman
For Respondent : Mr.Manohar Sundaram, AGP

ORDER

Mr.Manohar Sundaram, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed the above writ petition challenging the order dated 26.4.2016 passed by the respondent calling upon them to pay the compounding fees in a sum of Rs.90,076/- on the ground that they had not given any objections to the notice dated 18.5.2013.

3. Earlier, the petitioner approached this Court by way of a writ petition in W.P.No.31655 of 2012, which was disposed of on 26.11.2012 directing the respondent to release the goods subject to payment of tax without prejudice to the petitioner's rights and contentions. Pursuant to the order passed by this Court, since the petitioner paid one time tax, the goods in question have been released. Subsequently, a show cause notice was issued on 18.5.2013, which was received by the petitioner on

25.5.2013 wherein the petitioner had been called upon to pay a sum of Rs.90,076/- towards compounding fees and in the same notice, the petitioner was also granted an opportunity to submit their objections. However, the petitioner submitted their objections only on 29.11.2013 and sent the same by speed post. Thereafter, for quite some time, no orders were passed for nearly 1 1/2 years and no action was initiated.

4. Again on 6.7.2015, a notice was issued to the petitioner directing them to appear for a personal hearing on 20.7.2015 while stating that the petitioner had not filed their objections to the notice issued earlier. The petitioner sent a reply dated 13.7.2015 stating that they submitted their reply dated 29.11.2013 to the notice dated 18.5.2013 and requesting to drop the proposal to levy compounding fees. However, the respondent passed the impugned order without reference to the objections raised by the petitioner and stating that the objections were raised by the petitioner. That apart, no reasons have been given as to why the proposal made in the notice has been confirmed and the petitioner has been ordered to pay the compounding fees. Therefore, the impugned order is unsustainable in law.

5. In view of the above, the writ petition is allowed, the impugned order is set aside and the matter is remitted back to the respondent to issue a fresh notice for personal hearing, consider the petitioner's objections and thereafter pass a reasoned order on merits and in accordance with law. No costs. Consequently, the above WMP is closed.

-s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer, Ranipet (Out) Check Post,
Serkkadu,
Vellore District.

+ 1 cc to Mr.C.Venkataraman, Advocate, SR 30726

+ 1 cc to Govt.Pleader, High Court, Madras SR 30375

sks(co)
prk15/6

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