IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.34316 of 2015 & MP.No.1 of 2015
and
WP.No.34317 of 2015 & MP.No.1 of 2015

Tvl. Cylinder Liners Agencies Private Ltd.,
Rep by Managing Director,
R.R.Prakash Kumar,
18/24, M.G.Chakrapani Street,
Sathya Garden, Saligramam,
Chennai-93. .. Petitioner in both WPs

Vs

The Assistant Commissioner [CT],
Saligramam Assessment Circle,
21, 1st Floor, GK Industrial Estate,
1st Main Road, Saligramam,
Chennai-116. .. Respondent in both WPs

Writ petitions filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN/33411381631/2007-08 and TIN/33411381631/2008-09 respectively and quash the impugned assessment orders dated 14.08.2015 passed by the respondent and consequently direct the respondent to re-do the assessment for the impugned assessment years 2007-08 and 2008-09 after providing personal hearing to the Petitioner Company.

For Petitioner : Mr.L.Seetharaman
in all WPs
For Respondents : Mr.S.Kanmani Annamalai, AGP
in all WPs

C O M M O N O R D E R

Heard Mr.L.Seetharaman, learned counsel appearing for the petitioner;Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent and with the consent on either side, the writ petitions are taken up for disposal.

2. In both the Writ Petitions, the petitioner challenges the Assessment Orders dated 14.08.2015 passed by the respondent under the provisions of Tamil Nadu Value Added Tax, 2006 for the Assessment Years 2007-08 and 2008-09. The petitioner has questioned the impugned orders on the ground that they have been passed in violation of Principles of Natural Justice, as the petitioner did not have an opportunity to put forth its contentions. However, it is seen that for the Pre-revision Notice dated 20.03.2015, though time was granted to the petitioner to submit their objections, they failed to do so. Therefore, it is not a case of violation of Principles of Natural Justice, but a case, where the petitioner did not avail the opportunity granted.

3. A perusal of record of the proceedings would show that while entertaining the Writ Petition on 28.10.2015, an order of interim stay was granted directing the petitioner to pay 25% of the disputed tax for both the Assessment Years. This has been complied with by the petitioner and proof of compliance has been produced before this Court.

4. Considering the factual matrix involved in the case and taking note of the fact that the petitioner has already paid 25% of the disputed tax, this Court is of the view that one more opportunity should be granted to the petitioner. Accordingly, the petitioner is directed to treat the impugned proceedings as show cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this order. On objections being filed, the respondent shall afford an opportunity of personal hearing in which, the petitioner is entitled to produce documents and records and thereafter, the respondent shall re-do the assessment in accordance with law. As the petitioner has already paid 25% of the disputed tax for both the Assessment Years 2007-08 and 2008-09, no coercive action shall be initiated against this petitioner till fresh orders are passed.

With the above direction, the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
The Assistant Commissioner [CT],
Saligramam Assessment Circle,
21, 1st Floor, GK Industrial Estate,
1st Main Road, Saligramam,
Chennai-116.

+1 CC to Spl. Govt., Pleader, (Taxes), Sr.No.51179

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RP (CO)
MD : 20/09/2016