IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.34342 of 2015
&
M.P.Nos.1 to 3 of 2015

M/s.Amway India Enterprises Pvt.Ltd.
Rep by its Power Agent Abraham Ninan
Plot No.32 and 46 North Face
Sidco Industrial Estate
Guindy, Chennai – 600 032 ... Petitioner

Vs.

1. State of Tamil Nadu
Through its Principal Secretary
Finance Department
State of Tamil Nadu

2. Deputy Commissioner (CT)-III
Large Tax Payers Unit
No.34 Dugar Towers
Marshal Road
Egmore, Chennai-600 008 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in the impugned order dated 23.9.2015, consequential penalty notice (Form O) dated 23.9.2015 and the consequential impugned tax notice (Form RR) dated 23.9.2015 all bearing reference TIN 33050641137/2013-14 and quash the same as arbitrary and illegal and consequently direct the respondent No.2 to afford an opportunity of hearing to the petitioner specifically with respect to the issue of the petitioners product being exempted from payment of VAT.

For Petitioner : Mr. Rahul Balaji
for M/s.Sathish Parasaran

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records of the of the second respondent in the impugned order dated 23.9.2015, consequential penalty notice (Form O) dated 23.9.2015 and the consequential impugned tax notice (Form RR) dated 23.9.2015 all bearing reference TIN No. 33050641137/2013-14, to quash the same as arbitrary and illegal and consequently direct the second respondent to afford an opportunity of hearing to the petitioner specifically with respect to the issue of the petitioners product being exempted from payment of Value Added Tax.

2. It is the case of the petitioner that their product being exempted from payment of Value Added Tax, therefore, the second respondent should have considered the same and passed suitable orders. Further, according to the petitioner, even without giving an opportunity of hearing to the petitioner, the second respondent has passed the impugned order.

3. Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents submitted that since the petitioner was not given an opportunity of hearing, the impugned order may be set aside and the matter may be remitted back to the second respondent for fresh consideration.

5. Having regard to the submissions made by the learned counsel on either side, since the petitioner was not given an opportunity of personal hearing, the impugned order and the notices dated 23.9.2015 are liable to be set aside. Accordingly, the same are set aside and the matter is remitted back to the second respondent for fresh consideration. The second respondent is directed to decide the matter afresh, after giving due opportunity of personal hearing to the petitioner, on merits and in accordance with law.

With these observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Rj

To

1. The Principal Secretary
Finance Department
State of Tamil Nadu.

2. The Deputy Commissioner (CT)-III
Large Tax Payers Unit
No.34 Dugar Towers
Marshal Road, Egmore, Chennai-600 008

+1cc to M/s.Sathish Parasaran, Advocate, S.R.No.13857
+1cc to the Special Government Pleader(Taxes), S.R.No.13872

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PPA(CO)
CA(16/02/2016)