IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.36240 to 36243 of 2015
and M.P.Nos.1 to 1 of 2015

M/s Sri Kanniamman Cotton
Textiles (P) Ltd.,
rep by its Managing Director
E.Rukmani,
Kolathu Thottam,
Devarayampalayam,
Rakkipalayam Post,Avinashi,
Tiruppur District - 641 654. ..Petitioner in all W.Ps

Vs.

1.The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi,
Tiruppur District.

2.The Commissioner of Central Excise,
Customs & Service Tax,
Headquarters, Preventive Unit,
A.T.D.Street, Race Course Road,
Coimbatore - 641 018. ... Respondents in all W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the 1st respondent in TNGST/2080829/2003 - 2004, CST/294964/2000-2001, TNGST/2080829/2002 - 2003 and CST/294964/2002-2003 dated 10.09.2015 and quash the same as illegal, arbitrary and against the principles of natural justice and further direct the 2nd respondent to return the seized documents.

For Petitioner : Mr.K.Soundararajan
(in all W.Ps)

For Respondents: Mr.Manoharan Sundaram,
(in all W.Ps) Additional Government Pleader
(Tax) (R1)

Mr.A.P.Srinivas,
Standing Counsel (R2)

COMMON ORDER

The petitioner has filed the above Writ Petitions to issue writs of certiorarified mandamus to call for the records of the 1st respondent in TNGST/2080829/2003 - 2004, CST/294964/2000-2001, TNGST/2080829/2002- 2003 and CST/294964/2002-2003 dated 10.09.2015 and quash the same, which is against the principles of natural justice and further direct the 2nd respondent to return the seized documents.

2.It is the case of the petitioner that in spite of the request to furnish the documents, the 2nd respondent has not furnished the documents to them, therefore, they were not in a position to file their objections before the 1st respondent, hence, the 1st respondent had decided the matter even without deciding the petitioner's objections.

3.On a perusal of the materials available on record, it could be seen that the 2nd respondent had furnished the copies of 37 documents running to 2000 pages on 30.07.2004 to the petitioner, which was also duly acknowledged by the petitioner in their letter dated 29.09.2004. Now, after a lapse of more than 10 years, the petitioner again requested for copies of the documents from the 2nd respondent.

4.Mr.A.P.Srinivas, learned Standing Counsel for the 2nd respondent submitted that no document is available with them.

5.In these circumstances, the learned counsel appearing for the petitioner submitted that the petitioner may be given another opportunity to file their objections before the 1st respondent with the available documents and in such a case, the 1st respondent may be directed to decide the matter afresh.

6.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) appearing for the 1st respondent submitted that in the interest of justice, the petitioner can be given one more opportunity to file their objections.

7.Having regard to the submissions made by the learned counsel on either side, since the petitioner was not given an opportunity to file their objections, the impugned orders dated 10.09.2015 are set aside and the matter is remanded back to the 1st respondent for fresh consideration. The 1st respondent is directed to give an opportunity to the petitioner to file their objections and decide the matter afresh. The petitioner is directed to file their objections with the available documents within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the 1st respondent is directed to decide the matter afresh, on merits and in accordance with law, after taking into consideration the objections to be filed by the petitioner and after giving due opportunity of personal hearing to the petitioner.

8.With these observations, the Writ Petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

va

To

1.The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi, Tiruppur District.

2.The Commissioner of Central Excise,
Customs & Service Tax,
Headquarters, Preventive Unit,
A.T.D.Street, Race Course Road,
Coimbatore - 641 018.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.13083
+1cc to the Government Pleader, S.R.No.13037
+ 1 cc to Mr.A.P.Srinivas, Advocate Sr 13701 (14/6/16)

AK(CO)
EU(14/03/2016)

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