IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2016

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.2205 of 2016
and WMP.Nos.1896 & 1897 of 2016

M/s.Sulochana Cotton Spinning Mills [P] ltd.,
Rep. by S.Krishna Kumar, Managing Director,
Tirupur-4. .. Petitioner

Vs

The Deputy Commissioner [CT],
Fast Track Assessment Circle-1,
Commercial Taxes Complex,
Coimbatore-18. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records on the files of the respondent in TIN:33982320908/2014-15 dated 15.12.2015, received on 18.12.2015 and quash the same as being without jurisdiction, violative of principles of natural justice and hence invalid and illegal.

For Petitioner : Mr.C.Venkatraman

For Respondent : Mr.V.Haribabu, AGP

O R D E R

By consent, the Writ Petition is taken up for final disposal.

2.Challenging the assessment order dated 15.12.2015 passed by the respondent for the year 2014-15, the petitioner has filed the present writ petition.

3.According to the petitioner, the petitioner is engaged in the business of manufacture and sale of hosiery yarn and garments. For the assessment year 2014-15, the petitioner duly submitted its returns. While so, the place of business of the petitioner was inspected by the Enforcement Wing Authorities between 26.06.2015 to 03.07.2015 and a report was placed before the assessing authority. Based on the same, a show cause notice dated 23.09.2015 came to be issued on the grounds of ITC reversal on invisible loss, reversal of ITC on purchases made from dealers, whose registration certificate was cancelled, reversal of ITC on purchase of ineligible commodity and deficiency in payment of taxes on the basis of cross verification of the sellers. On receipt of the same, the petitioner filed its objections and also sought time for production of various documentary evidence. Instead of granting time, the respondent sent an e-mail attaching 250 pages covering 2400 invoices and directed the petitioner to submit their reply at the earliest. When the petitioner sought sufficient time and was in the process of verifying all those 2400 invoices, the respondent passed the assessment order dated 15.12.2015, confirming the proposals made in the notice dated 23.09.2015 on the ground that no reply was forthcoming from the petitioner. Aggrieved against the same, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner submitted that the issue involved in this assessment order is relating to various heads and the petitioner requested reasonable time for verifying 2400 invoices, which was denied and the respondent proceeded with the assessment. Further, the learned counsel for the petitioner submitted that the provisions of Sections 22[2], 19[9][iii] and 27 of the Tamil Nadu Value Added Tax Act, 2006, mandate an opportunity of being heard as well as sufficient time for filing objections. Despite the same, the impugned order came to be passed, as such, the same is arbitrary, illegal and in violation of the principles of natural justice. In support of his contention, the learned counsel for the petitioner also relied on the decision of this Court reported in 23 VST 283 [Kanchi Bakers & Sweets Vs. Assistant Commissioner [CT], Villivakkam assessment circle, Chennai].

5.On the other hand, the learned Additional Government Pleader, who took notice for the respondent, submitted that sufficient time was granted to the petitioner and the petitioner failed to avail such opportunity and hence, there cannot be any reasonable cause to quash the order.

6.I have considered the rival submissions made on both sides and perused the documents available on record.

7.Admittedly, an e-mail enclosing 2400 copies of invoices was sent by the respondent, thereby directed the petitioner to peruse the same and file its objections. Further, on the request of the petitioner seeking reasonable time, no communication either accepting the representation or rejecting the time sought for, was also sent to the petitioner. In such circumstances, I am of the view that the time granted to the petitioner for perusal of those invoices and filing its objections was insufficient and the impugned order passed by the respondent without granting reasonable time to the petitioner is in violation of the principles of natural justice and is hence, liable to be set aside.

8.Accordingly, the order dated 15.12.2015 passed by the respondent for the assessment year 2014-15 is set aside and the matter is remanded to the respondent for passing fresh assessment order. The petitioner is directed to peruse the documents and file its objections to the notice within three weeks from the date of receipt of a copy of this order and on such filing, the respondent shall consider the same and pass fresh assessment order for the year in question on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of six weeks thereafter.

9.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

gya/rk

To

The Deputy Commissioner [CT],
Fast Track Assessment Circle-1,
Commercial Taxes Complex,
Coimbatore-18.

1 cc to Mr.C. Venkatraman, Advocate, Sr. 3685
1 cc to Special Government Pleader (Taxes), Sr. 4142

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GJ (CO)
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