IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:24.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3561/2013 & MP.No.1/2013

Agro Dutch Industries Limited
rep.by its Deputy Managing Director
Mr.Vivek Atri, Padalam Sugar Factory
Pazhayanoor P.O., Madurantakam
603308, Kancheepuram District. .. Petitioner

Vs.

The Commercial Tax Officer
Madurantakam Assessment Circle
Madurantakam. .. Respondent

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus calling for the records on the files of the respondent herein in his TIN No.33834168161 5/2011-12 dated 09.01.2013 and to quash the same and consequently direct the respondent to make an enquiry with regard to the stock transfer under the CST Act on verifying the Form I return filed under the CST Act, 1956.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

ORDER

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent and with their consent, the Writ Petition is taken up for final disposal.

2.The petitioner who is a registered dealer, on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, has filed this writ petition challenging the order dated 09.01.2013. Admittedly, the petitioner did not submit the objections to the pre-revision notice in spite of having received the same. Yet, the petitioner is before this Court challenging the impugned order on several grounds and one of the grounds being that the entire turnover has been assessed at 14.5% when the appropriate rate of tax was 12.5%.

3.The respondent in the counter affidavit, more particularly, in paragraph 11, thereunder, has admitted that this is an inadvertent error and necessary action will be taken to levy correct rate of tax after the disposal of the writ petition.

4.In my view, this would be sufficient ground to set aside the impugned order of assessment and to remit the matter to the respondent so as to enable the respondent not only to consider and levy correct rate of tax but also afford an opportunity to the petitioner to put forth their objections in respect of the other issues.

5.In the light of the above, the writ petition is allowed and the impugned order dated 09.01.2013 in TIN No.338341681615/2011-12 is set aside and the matter is remitted back to the respondent for fresh consideration. The petitioner is permitted to file their objections supported by documents if any, within a period of two weeks from the date of receipt of a copy of this order, after which, the respondent shall afford an opportunity of personal hearing to the petitioner and to proceed and complete the assessment. No costs. Consequently, the connected miscellaneous petition is closed.

sgl

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

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer
Madurantakam Assessment Circle
Madurantakam.

+ 1 cc to Mr.N.Inbarajan, Advocate SR 35564

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 35485

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W.P.No.3561/2013