IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER

W.P.No.43350 of 2016
and W.M.P.No.37221 of 2016

M/s.Symphony Polimers Private Limited,
Rep. By its Authorised Signatory,
Plot No.18, Door No.8/14,
SIDCO Industrial Estate,
Manali New Town,
Chennai - 600 103. ... Petitioner

vs.

1.Assistant Commissioner, (CT)
Cholavaram Assessment Circle,
Chennai - 600 052.

2.Assistant Commissioner, (CT)
Ponneri Assessment Circle,
Ponneri, Thiruvallur District. ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Certiorarified Mandamus, call for the records of the first respondent in his proceedings in CST No.981245/2010-11 dated 05.01.2015 and quash this order which is passed without jurisdiction and to direct the second respondent to pass fresh orders and to give an opportunity of personal hearing to the petitioner in this case.

For Petitioner :Mr.C.Baktha Siromoni
For Respondents :Mr.S.Kanmani Annamalai,
Additional Govt. Pleader (T).

O R D E R

1. Issue notice. Mr.Kanmani Annamalai, accepts notice on behalf of the respondents. With the consent of counsel for parties, the writ petition is taken up for final disposal.

2. This writ petition is directed against the order dated 05.01.2015, whereby, tax payable by the petitioner has been determined as Rs.15,91,363/-.

3. Briefly, the petitioner's case is that, it is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (in short "the 2006 Act") as well as under the Central Sales Tax Act, 1956 (in short "the 1956 Act"). It is claimed that the petitioner manufacturers poly bags. The petitioner further states that it has been filing monthly returns both under the 2006 Act and the 1956 Act with the Assistant Commissioner (CT), Cholavaram Circle.

3.1. It is further stated that for the assessment year 2010-11, the petitioner filed monthly returns before the second respondent i.e., the Assistant Commissioner (CT), Ponneri Assessment Circle. The petitioner avers that all monthly returns along with taxes were accepted by the Assistant Commissioner (CT), Ponneri Assistant Circle.

3.2. Evidently, the bifurcation of the Assessment Circle took place on 01.09.2014. Pursuant to the bifurcation, the petitioner's case came to be assessed by the first respondent i.e., the Assistant Commissioner (CT), Cholavaram Assessment Circle. It appears that the first respondent i.e., the Assistant Commissioner (CT), Cholavaram Assessment Circle, issued a notice dated 27.08.2015 to the petitioner for production of 'C' Forms pertaining to assessment years 2010-11.

3.3. The petitioner claims that, since, the requisite 'C' Forms had been filed with the second respondent i.e., the Assistant Commissioner (CT), Ponneri Assessment Circle, it approached the said Officer, vide communication dated 19.03.2016, so that copies of the monthly returns and 'C' Forms already filed for the assessment year 2010-11 could be transferred to the first respondent i.e., the Assistant Commissioner (CT), Cholavaram Assessment Circle.

4. I am further informed that the petitioner not only filed a reply to the notice dated 27.08.2015 issued by the first respondent i.e., the Assistant Commissioner (CT), Cholavaram Assessment Circle, but also, filed duplicate 'C' Forms with him under the cover of letter dated 25.08.2016. In sum, the petitioner claims, that if, the 'C' Forms filed with the second respondent i.e., the Assistant Commissioner (CT), Ponneri Assessment Circle had been taken into account by the first respondent, then there would be no liability towards tax.

5. Learned counsel in support of his case, relies upon the order dated 20.06.2016, passed by a Single Judge of this Court in W.P.No.26055 of 2015 titled: M/s.Arjun Ply and Veneers Pvt. Ltd Vs. The Assistant Commissioner (CT), Cholavaram Assessment Circle and others.

6. Having regard to the submissions made before me, and after perusing the record, I am inclined to allow the writ petition with the following direction. It is ordered accordingly.

7. Consequently, the first respondent i.e., the Assistant Commissioner (CT), Cholavaram Assessment Circle, will requisition the 'C' Forms and the monthly returns filed by the petitioner with the second respondent i.e., the Assistant Commissioner (CT), Ponneri Assessment Circle, and thereafter, proceed to pass a fresh assessment order. Prior to passing a fresh assessment order, notice will be issued to the petitioner and, an opportunity of personal hearing will, also, be accorded in the matter.

8. The Writ Petition is, thus, closed based on the aforesaid directions. Resultantly, the connected pending application shall also stand closed. There shall, however, be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.Assistant Commissioner, (CT)
Cholavaram Assessment Circle,
Chennai - 600 052.

2.Assistant Commissioner, (CT)
Ponneri Assessment Circle,
Ponneri, Thiruvallur District.

+1cc to Mr.C.Bakthasiromani, Advocate sr.73590
+1cc to the Special Government Pleader sr.73634

W.P.No.43350 of 2016
and W.M.P.No.37221 of 2016

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srg 21/12/2016