BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.2745 of 2016
and
W.M.P.(MD).No.2424 of 2016

M/s. Shanti Guru Marketing
represented by its Proprietor Sripal Sanghvi,
No.53, Chinnakamala Street,
Trichy 620 008. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Mallamchanndai I Circle,
Trichy 620 020.
... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in revision order dated 07.01.2016 passed in TIN:33673421398/2012-13 and quash the same as illegal, against the principles of natural justice and fair play and contrary to provisions of TNVAT Act.

For Petitioner : Mr.T.Pramodkumar Chopda
For Respondent : Mr.R.Karthikeyan
Additional Govt. Pleader

ORDER

The writ petition has been filed for a Writ of Certiorari to call for the records on the file of the respondent in revision order dated 07.01.2016 passed in TIN:33673421398/2012-13 and quash the same as illegal, against the principles of natural justice, fair play and contrary to provisions of TNVAT Act.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader.

3. The only point which has been raised by the assessee is that earlier, notice was issued sought for an explanation and he has given an explanation. On considering the explanation, the respondent has added further amount, for which no notice has been given. If any notice has been issued, the petitioner would have been in a better position to put forward his case whereby even there need not be any demand of tax. In fact, at one point of time, the respondent has accepted the CST transaction. Therefore, he would also contend that the very impugned order itself is not correct and it is in violation of principles of natural justice. In this connection, he also pointed out that as far as

the original assessment is concerned, he preferred an appeal and paid 50% of the amount, but as far as the enhancement of amount, as it is without notice, the enhanced amount is per se illegal. In order to show his bona fide, the petitioner is ready and willing to deposit 10% of the tax demanded.

4. The learned Additional Government Pleader for the respondent fairly submitted that after the enhancement or before passing order of enhancement, no notice has been issued.

5. As rightly pointed out by the assessee that when the enhancement is sought for, the petitioner should have been put on notice regarding the exact amount and that has not been done in this case.

6. Under such circumstances, the impugned order dated 07.01.2016, passed by the respondent is set aside subject to the condition that the petitioner shall deposit Rs.10,00,000/- (Rupees Ten Lakhs only) of the tax demanded on or before 31.03.3016 and shall deposit Rs.5,00,000/- (Rupees Five Lakhs only) on or before 10.04.2016 and on such deposit being made, the matter is remitted back to the respondent, who shall give an opportunity of personal hearing to the petitioner and thereafter pass appropriate orders in accordance with law.

7. The Writ Petition is disposed of accordingly. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

The Assistant Commissioner (CT),
Mallamchanndai I Circle,
Trichy 620 020.

+1CC to M/S. Pramodhkumar Chopda,Advocate, SR.No. 14035
+1CC to the Special Government Pleader, SR.No. 14102

W.P.(MD)No.2745 of 2016
and
W.M.P.(MD).No.2424 of 2016
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AM/GSV.PM/SAR-I/28.03.2016/2P/4C