IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2017

CORAM

THE HON'BLE Mr. JUSTICE K.RAVICHANDRABAABU

W.P.No.10854 of 2017
and
WMP. No.11789 of 2017

Tvl. SPX Thermal Equipment and
Services India Pvt. Ltd,
Rep by its P.A.Holder R.Shridhar,
Apex Plaza 3rd Floor,
No.3, Nungambakkam High Road,
Nungambakkam,
Chennai - 600 034. ..Petitioner

Vs.

1. The Assistant Commissioner (CT)
Vallurvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
4th Floor, Greams Road,
Chennai - 600 006.

2. The Commissioner of Commercial Taxes,
Ezhilagam, Chennai 600 005. .. Respondents

This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records on the files of the 1st respondent in so for as the rejection order of petitioner request available in para 4 of combined show case notice in TIN 33396288387/2015-16 & CST/1219437/2015-16 dated 19.04.2017 and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the principle laid down by this Honorable Court and direct the 1st respondent to issue declaration forms in 'É II' as per the petitioner request letters dated 27.03.2017 and 03.04.2017.

For Petitioner : Mr.D.Vijayakumar

For Respondents: Mr.K.Venkatesh,
Government Advocate

O R D E R

This writ petition is filed challenging the show cause notice dated 19.04.2017 issued by the 1st respondent only insofar as a portion of the said notice, wherein the request of the petitioner for furnishing E-II Forms, was rejected.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents. By consent, the writ petition is taken up for final disposal.

3. The grievance of the petitioner is that while the requisition made by the petitioner for furnishing E-II Forms is nothing to do with the other issues involved in the show cause notice, the 1st respondent has included the rejection order also in the show cause notice and called upon the petitioner to appear in person on 05.05.2017. Therefore, he submitted that when the petitioner is ready and willing to appear and give their reply to the show cause notice in respect of the issues involved therein, the respondent has to reconsider the issue regarding the furnishing of E-II Forms to the petitioner, since such rejection was made without hearing the petitioner.

4. The learned Government Advocate submitted that the first respondent will reconsider the issue in respect of issuance of E-II Forms to the petitioner and pass fresh orders after hearing them. However, he further submitted that insofar as the issues involved in the show cause notice are concerned, the petitioner may be directed to appear and show cause on the date fixed.

5. From the above stated facts and circumstances, it is evident that the petitioner is not in fact challenging the show cause notice and the issues raised therein and on the other hand, they are willing to go before the 1st respondent and give their explanation. Their only grievance is that the other issue, not relevant to the show cause notice has also been clubbed in the said notice and therefore, they seek for reconsideration of the said issue by the 1st respondent.

6. It appears that the request made by the petitioner for grant of E-II Forms was rejected without giving an opportunity of hearing to the petitioner. Therefore, I find that such rejection cannot be sustained. Accordingly, paragraph No.4 of in the impugned show cause notice wherein the dealers request for grant of E-II Forms was rejected, is set aside. Consequently, the matter is remitted back to the 1st respondent for considering the said request of the petitioner

and pass fresh orders after hearing them. Such exercise shall be done by the 1st respondent within a period of two weeks from the date of receipt of a copy of this order. In all other respects, the show cause notice stands and it is for the petitioner to give their objections within the time stipulated therein. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi/mm

To

1. The Assistant Commissioner (CT)
Vallurvarkottam Assessment Circle,
No.10, Palaniyappa Maligai,
4th Floor, Greams Road,
Chennai - 600 006.

2. The Commissioner of Commercial Taxes,
Ezhilagam,
Chennai 600 005.

+1cc to M/s. D. Vijayakumar, Advocate, S.R.No.25693

+1cc to the Government Pleader, S.R.No.25922

RR(CO)
EU 27.4.17

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