IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33389 of 2017
and WM.P.No.36864 of 2017

M/s.COPPER AGRO CHEM
Rep.by its partners
MRS.RITA CHORDIA
2/54, J.P.Joint Road,
Cholavaram, Tiruvallur 600 067. ...Petitioner

Vs.

The State Tax Officer
Ponneri Assessment Circle
22, New Kutuchery Road
Taluk Office Main Road
Ponneri 601 204. ... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the respondent in CST 597480/2017-18, dated 13/11/2017 and quash the same as illegal, ultra-virus and against the principle of natural justice.

For Petitioner : M/s.C.Rekha Kumari

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard M/s.C.Rekha Kumari, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. Considering the limited issue involved in this writ petition, the same is taken up for disposal at this stage.

2.The petitioner is aggrieved by an assessment order dated 13.11.2017 passed by the respondent under the provisions of the Central Sales Tax Act, 1956 (hereinafter referred to as the "CST Act"). The petitioner had reported that they have effected inter-state sales against Form C declaration at concessional rate of tax and produced Form C declaration. The respondent appears to have verified the same and has rejected the forms by stating that they are incorrect and obsolete and completed the assessment. Before passing the impugned order, the petitioner did not have an opportunity to put forth their objections and the petitioner was not informed as to why the respondent came to the conclusion that the Forms were incorrect and obsolete. Even, assuming that the Forms are found to be defective, this Court has held that the Forms should be returned to the dealer to rectify the defects. However, while returning the Forms, the officer should inform the dealer as to why he is of the opinion that the Forms are defective. In the instance case, the respondent has not stated as to why the Forms are incorrect and why he is of the opinion that they are obsolete. This is sufficient to interfere with the impugned order.

3.For the above reasons, the writ petition is allowed, the impugned order is set aside with the direction to the respondent to return the C Forms along with a memo clearly stating as to why he is of the opinion that the Forms are incorrect or obsolete. On receipt of the memo/notice, the petitioner is entitled to file their objections after which the petitioner should be heard in person and a decision to be taken afresh in accordance with law. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(AR-J)

//True Copy//

Sub Assistant Registrar

dna/cse

To

The State Tax Officer
Ponneri Assessment Circle
22, New Kutuchery Road
Taluk Office Main Road
Ponneri 601 204.

+ 1 cc to Mr. C. Rekha Kumari, Advocate SR.91211
+ 1 cc to Special Government Pleader SR.91771

ar-j
EU(09/01/2018)