IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.10.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.4921 of 2007
and
M.P.No.1 of 2007

M/s.Sri Ratna Oil Mills,
rep. By its Partner,
55, Chennimalai Road,Erode. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Enforcement - III, Erode. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the respondent in TNGST:323377/1980-81 and quash the order dated 06.06.2005 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.K.Venkatesh
Government Advocate

ORDER

Heard Mr.B.Raveendran, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2.This case has a chequered history as the assessment order had been passed under the Tamil Nadu General Sales Tax Act for the assessment year 1980-1981 is yet to attain finality. The original assessment for the said year was completed by order dated 07.01.1982. subsequently, revision notices were issued on 06.02.1986 and 01.09.1986. Pursuant to which, the respondent revised the assessment order dated 07.01.1982 and passed a revisional order on 17.11.1986. Aggrieved by the same, the petitioner preferred an appeal to the Appellate Assistant Commissioner (CT), Erode. The said appeal was allowed by order dated 15.12.1988 and the matter was remanded to the Assessing Officer for fresh consideration with certain directions. The State preferred further appeal to the Sales Tax Appellate Tribunal against the said order and the said appeal was dismissed by order dated 14.02.1990 restoring the order passed by the Appellate Assistant Commissioner. Thus, the order of remand to the Assessing Officer remained intact. The next step the Assessing officer should have taken is to issue notice to the petitioner clearly indicating as to how he propose to revise the assessment, give liberty to file objections, afford an opportunity of personal hearing and redo the assessment. Unfortunately, the respondent straightaway passed the impugned assessment order. In the interregnum, the Assessing Officer has also given effect to the order passed by the Sales Tax Appellate Tribunal and refund has been sanctioned on 29.10.1991. Thus, the mistake committed by the respondent is in not following the due procedure required to be followed before completing the assessment.

3.Thus, for the above reasons, the impugned order is liable to be set aside. However, considering the fact that the assessment year is of 1980-1981, instead of issuing a fresh notice, the Court directs the petitioner to treat the impugned assessment order as a show cause notice and submit their objections within a period of 30 days from the date of receipt of copy of this order and on receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. Till then, the order of stay granted by this Court shall continue.

4.With the above direction, the Writ Petition is disposed of. No costs consequently, connected miscellaneous petition is closed.

sd/-
Assistant Registrar

True Copy

S Sub Assistant Registrar

Sgl

To

The Deputy Commercial Tax Officer,
Enforcement - III, Erode.

Copy to

The Record Keeper, E.R.Section,
High Court, Madras-104.

+ 1cc to Spl.G.P. [Taxes] sr.no.73227
+ 1cc to Mr.B.Raveendran, Advocate [Taxes] sr.no.73156

W.P.No.4921 of 2007

RR 14/11/2017