IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.6342 of 2004
and
W.M.P.Nos.16654 to 16657 & 7498 of 2004

M/s. Blue Star Ltd.,
133, Kodambakkam High Road,
Chennai 600 034. ... Petitioner

Vs.

1. The Commercial Tax Officer,
   Valluvarkottam Assessment Circle,
   621, Anna Salai,
   Chennai 600 006.

2. The State of Tamil Nadu rep by
   the secretary to Government
   CT & RE Department,
   Fort St.George, Chennai 600 009.

3. The Principal Commissioner &
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai- 600 005. ... Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the third respondent in Lr.No.02/60903/2003,quash the proceedings dated 19.02.2004 made therein and further direct the first respondent to complete the assessments of the petitioner for CST 1996-97 to 1999-2000 based on the returns already filed, duly waiving the procedure laid down under section 12 of the TNGST Act, 1959 read with section 9 (2) of the CST Act, 1956 and by adopting the methodology of assessment relating to the previous assessment years in the absence of books of accounts and other relevant documents and pass orders.

For Petitioner : Mr.R.L.Rajamani,
Senior Counsel
Assisted by Mr.B.Raveendran

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.R.L.Rajamani, learned Senior counsel assisted by Mr.V.Raveendran learned counsel appearing for the petitioner, Mr.K.Venkatesh, learned Government Advocate appearing for the respondents. With the consent on either side, the Writ Petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging a proceedings of the Commissioner of Commercial Tax, dated 19.02.2004, whereby the petitioner's request dated 06.02.2003, to assess them to sales tax by following the procedure in the circular issued by the Commissioner, dated 23.02.1998, came to be rejected.

3. The petitioner's case is that on account of a fire accident, all the records, account books etc., were fully gutted down, as a result of which they were unable to produce the records to complete the assessment under the provisions of CST Act for the year 1996-1997 to 1999-2000. Hence, they requested that assessment be completed based on the returns already filed. The respondents by the impugned proceedings has rejected the request, as it is not capable of compliance. However, no reasons have been assigned by the respondents as to why, it is not capable of compliance. The petitioner would state that the fact that fire accident occurred is not in dispute and to substantiate the same, newspaper quotes were produced. In such circumstances, the impugned proceedings being a non-speaking proceedings calls for interference.

4. The Senior learned counsel for the petitioner submitted that such type of contingencies has been taken care of by introduction of section 12C of the Act. Those aspects of the matter shall also be considered by the respondent Commissioner.

5. Accordingly the writ petition is allowed, the impugned proceedings is set aside and the matter is remanded to the Commissioner for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner/authorised representative and pass a speaking order on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

pbn/sm

To

1. The Commercial Tax Officer,
   Valluvarkottam Assessment Circle,
   621, Anna Salai,
   Chennai 600 006.

2. The secretary to Government
   CT & RE Department,
   Fort St.George,
   Chennai 600 009.

3. The Principal Commissioner &
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai- 600 005.

+1cc to Mr.Chandran Karuppiah, Advocate, S.R.No.47973
+1cc to the Special Government Pleader(T), S.R.No.48269

Writ Petition No.6342 of 2004

SKV(CO)
CA(28/07/2017)