IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 25496 of 2013

and MP No.1 of 2013

Associated Brothers' Club,
No.141-B, Purasawakkan High Road,
Kellys, Chennai 600 010. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Ayanavaram Assessment Circle,
Kuralagam Annex, Third Floor,
Chennai 600 108. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent relating to the impugned order in R.C.No.1165/A4/230/13/2012-13 dated 02.08.2013 and quash the same as illegal and unconstitutional and direct the respondent to grant the petitioner a fresh opportunity to produce the books of accounts.

For Petitioner : Mr.S.D.Venkateswaran
For Respondent : Mr. K.Venkatesh
Govt. Advocate (Taxes)

O R D E R

The writ petition is filed to call for the records of the respondent relating to the impugned order in R.C.No.1165/A4/230/13/2012-13 dated 02.08.2013 and quash the same as illegal and unconstitutional and to direct the respondent to grant the petitioner a fresh opportunity to produce the books of accounts.

2. Heard Mr.S.D.Venkateswaran, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate (Taxes) appearing for the Respondent.

3. The learned counsel for the petitioner submits that the Enforcement Wing Department inspected the petitioner premises on 09.09.2012 and they have verified the purchase, sales and stock records as per FL2 register. At the time of said inspection, the officers found that the petitioner had effected liquor sale for a sum of Rs.35,13,735/- from 01.04.2012 to 13.09.2012 and the respondent has worked out tax liability @ 14.5% and have raised a demand to a tune of Rs.5,09,492/- payable to the Government. The petitioner has not paid the tax due along with monthly returns for the assessment year 2012-13. The respondent has proposed to assess the petitioner for the assessment year 2012-13 based on the sales details furnished by the Enforcement Wing Officers recorded at the time of inspection by way of best judgment assessment. Based on the above estimation, the respondent had issued a show cause notice dated 12.06.2013 calling for any objections and the same was served on the petitioner on 14.06.2013. On receipt of the show cause notice, the petitioner recreation club by letter dated 27.06.2013 submitted their objections. The learned counsel for the petitioner would further submit that without considering the objections made by the petitioner, the respondent has passed the impugned order. Therefore the petitioner has filed the present Writ Petition on the grounds that the respondent thereby violating the principles of natural justice and passed impugned order.

4. The learned Government Advocate would submit that the show cause notice was served to the petitioner, there is no reply has been received from the petitioner. Therefore, the said impugned order has been passed by the respondent Department.

5. According to the learned counsel for the petitioner, he had produced the letter delivery book before this Court and the objection was sent on 01.07.2013, to the respondent department. In the light of the above submissions made by the learned counsel for the parties, the objection of the petitioner has not been considered by the respondent while passing the impugned order. In the interest of justice, an opportunity shall be granted to the petitioner to put forth his contention before the Authority. Hence, I am inclined to interfere with the impugned order passed by the Respondent authority for providing an opportunity to the petitioner and therefore impugned order passed by the respondent is quashed.

6. The respondent is directed to consider the objection dated 27.06.2013, and pass order after affording an opportunity to the petitioner under Section 22(4) of the TNVAT 2006, on merits and in accordance with law.

7. With the above observation, the Writ petition is disposed of. No costs. Consequently, the miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Ayanavaram Assessment Circle,
Kuralagam Annex, Third Floor,
Chennai 600 108.

+1cc to Mr.S.D. Venkateswaran, Advocate, S.R.No.3830
+1cc to the Spl.Government Pleader (Taxes), S.R.No.3867

skv(CO)
md(06/03/2017)

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