IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.07.2017

CORAM

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.14532 of 2006
and
W.M.P.No.15323 of 2006

Tvl. S.C.M.Textile Processing Mills,
Represented by its Partner Mr.N.K.Nandhugopal,
896, suriya Nagar, ABT Road,
Karuvampalayam, Tirupur-4.

.. Petitioner

Vs

1. The Deputy Commercial Tax Officer,
   Tiurpur South Assessment Circle,
   Tirupur.

2. The Commercial Tax Officer,
   Tirupur South Circle,
   Tirupur.

...Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to the Notice issued by the 1st Respondent herein in TNGST No.2320342/2004-2005, dated 31.03.2006 and quash the same.

For Petitioner : Mr.Mohamed Ibrahim Ali
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader.

ORDER

Heard Mr.Mohamed Ibrahim Ali, the learned counsel appearing for the petitioner, and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, for the respondents.

2. The petitioner, who is a registered dealer on the file of the second respondent, under the provisions of the erstwhile Tamil Nadu General Sales Tax Act, 1959 (TNGST Act) is aggrieved by a notice, dated 31.03.2006, by which, the respondent proposed

to reject the turnover report filed by the petitioner, and proposed to determine the same to the best of judgment for the year, 2003-2004, under the TNGST Act.

3. The learned counsel appearing for the petitioner would submit that for the assessment year 1998-99, identical transaction was considered by the Tamil Nadu Taxation Special Tribunal, in O.P.No.503 of 2002, and an order in favour of the petitioner has been passed, stating that consumables used as dyes and chemicals cannot be taxed.

4. The learned Additional Government Pleader, on the other hand, would submit that, there are subsequent decisions of the Hon'ble Division Bench, which are held otherwise.

5. In any event, the impugned proceedings is only a notice, and therefore, appropriate thing to be done is for the petitioner to respond to the notice, by submitting objections. Accordingly, the Writ Petition is disposed of, giving 30 days' time from the date of receipt of a copy of this order to the petitioner to submit their objections to the impugned notice, wherein, the petitioner is entitled to raise the plea that the issue pointed out in the impugned notice is covered by the decision rendered by the Tribunal, in O.P.No.503 of 2002, dated 29.07.2002. On such objection being filed, the second respondent is directed to consider the same and afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To
1. The Deputy Commercial Tax Officer,
   Tiurpur South Assessment Circle,
   Tirupur.
2. The Commercial Tax Officer,
   Tirupur South Circle,
   Tirupur.
+1 CC to Mr.Mohamed Ibrahim Ali, Advocate sr 49991

W.P.No.14532 of 2006

SCD(CO)
sp(11/08/2017)