IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.07.2017

Coram

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

Writ Petition No.26600 of 2004
and
W.P.M.P.No.32387 of 2004

M/s.Anuj Exports
Rep. By its Legal Heir
Smt. R.Muthulakshmi
No.4, Jai Nagar 3rd Street,
Vijayapuram Post,
Nallur Village, Tirupur. ...Petitioner

Vs.

The Commercial Tax Officer,
Tirupur (Rural) ... Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in his urgent notice in Asst.No.2381782/95-96 dated 27.08.2004 quash the same and consequently direct the respondent herein to pass orders in accordance with law after following the procedures prescribed under the Act.

For Petitioner : Ms.R.Hemalatha

For Respondent : Mr.K.Venkatesh, Government Advocate

O R D E R

Heard Ms.R.Hemalath, learned counsel appearing for the petitioner,Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2. The petitioner is the legal heir of one S.P.Ramachandran, who was the sole Proprietor of the petitioner company viz., M/s.Anuj Exports. The petitioner's husband died on 01.06.1996 and after his demise, on 07.07.1997 the petitioner is stated to have surrendered the registration certificate to the respondent.

However, after almost two decades, proceedings have been initiated by issuing the impugned demand notice, which has been stayed by this Court by order dated 17.09.2004 and the order of stay is still in force.

3. In the para wise comments given by the respondent to the learned Government Advocate, it is stated that the closure date of the business was not intimated to the respondent. In any event, the legal issue is as to whether, the declaration in Form H should be considered.

4. The Honourable Division Bench has held that the authority is empowered to make a through enquiry before taking a decision on the Form H declaration submitted by any dealer. Considering the efflux of time and that the petitioner's husband passed away in the year 1996 and the Registration Certificate has been shown to have been surrendered along with letter dated 07.07.1997, at this juncture, the impugned demand cannot be threshold on the petitioner.

5. For the above reasons, the writ petition is allowed and the impugned demand notice is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsm

To

The Commercial Tax Officer,
Tirupur (Rural)

+1cc to Ms.R.Hemalatha, Advocate, S.R.No.48500
+1cc to the Government Pleader, S.R.No.48301

Writ Petition No.26600 of 2004

AR(CS III)
CS/03/08/17