IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2017

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.16385, 16386 and 16387 of 2004
and
W.P.M.P.Nos.19359 to 19361 of 2004

M/s.Thamana Vinyl Traders,
6, Nyniappa Naicken Street,
Chennai - 600 003. ... Petitioner in all WPs

Vs.

The Commercial Tax Officer,
Evening Bazaar Assessment Circle,
Chennai - 600 001. ... Respondent in all WPs

Prayer in W.P.Nos.16385 to 16387 of 2004: Writ Petitions, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for the records of the first respondent in TNGST.0340418/2002-03, 2001-02 and 2000-01 respectively and quash the order dated 31.05.2004 therein in as much as the same has been passed in gross violation of the principles of natural justice.

In all WPs:
For Petitioner : M/s.Hema Murali Krishnan

For Respondent : Mr.K.Venkatesh
Government Advocate

COMMON ORDER

As the issue involved and the parties in these Writ Petitions are identical in nature, these Writ Petitions are taken up together and disposed of by this common order.

2. Heard M/s.Hema Murali Krishnan, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, the learned Government Advocate for the respondent.

3. In these Writ Petitions, the petitioner has challenged the orders of revision of assessment for the years 2000-01,

2001-02 and 2002-03, under the provisions of the Central Sales Tax Act, 1956.

4. The only ground on which, the revisional assessment orders have been challenged is by contending that the petitioner did not have adequate opportunity to produce the documents and file their objections. It is seen that assessment for the relevant period was completed on 30.03.2004. Thereafter, the notices were issued to re-open to the assessment and the petitioner was accorded ten days' time to file their objections. The petitioner submitted representations/letters, dated 03.05.2004, requesting for one month time to file their objections. However, the respondent, without considering the said representations, and without any intimation, passed the impugned orders.

5. It may be true that, after the expiry of 30 days period, the petitioner could have appeared before the respondent. On the other hand, what would have been a reasonable procedure for the respondent to have followed is to fix a date for appearance of the petitioner by considering their representations/letters, dated 03.05.2004. However, the said procedure was not followed by the respondent.

6. Thus, considering the facts of the case, and that earlier assessment was completed by accepting that the goods are exempted from tax by the Government, and therefore, they could not have availed E-I forms, the respondent now seeks to re-open the assessment, by referring to a decision of this Court, reported in 120 STC 34. Therefore, this Court is of the view that the petitioner should have been given an opportunity to submit their objections and contest the matter on merits.

7. In the light of the above discussions, the Writ Petitions are allowed and the impugned orders are set aside, and the matters are remanded to the respondent for fresh consideration. The petitioner shall file their objections to the notices, dated 21.04.2004, within a period of fifteen days from the date of receipt of copy of this order, and on receipt of the same, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sd/si

To

The Commercial Tax Officer,
Evening Bazaar Assessment Circle,
Chennai - 600 001.

+1cc to Mr.Chandran Karuppiah, Advocate, S.R.No.47169
+1cc to the Special Government Pleader(T), S.R.No.47301

Writ Petition Nos.16385,
16386 and 16387 of 2004

CS V
CA(28/07/2017)