IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2017

Coram:

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

W.P.No. 38889 of 2004
and
W.M.P. No. 46429 of 2004

M/s. Eureka Systems and
Electronics (P) Ltd.,
Rep. by its Managing Director
K. Chandrashekar,
No. 11/15-A, Selvarajapuram,
Chinthamanipudur,
Coimbatore – 641 103.

...Petitioner

Versus

1. The State of Tamil Nadu,
   Rep. by its Secretary to
   Government,
   Commercial Taxes and
   Religious Endowments,
   Fort St. George,
   Chennai – 600 009.

2. The Deputy Commercial
   Tax Officer, Palladam.

3. The State of Andhra Pradesh,
 Rep. by its Secretary,
 Department of Revenue,
 Hyderabad, Andhra Pradesh.

4. The State of Kerala,
 Rep. by its Secretary,
 Department of Revenue.
 Tiruvananthapuram,
 Kerala State.

5. The Union Territory of India,
 Rep. by its Secretary,
 Department of Revenue,
 New Delhi.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of writ of certiorarified mandamus calling for the records on the file of the second respondent in CST No. 750340/2000-2001 dated 12.11.2004 quash the same and further direct the second respondent to consider the Form F Declaration with proof of despatch of the goods filed by the petitioner under section 6A of the CST Act, 1956 and pass appropriate orders in the light of the law laid down by the Hon'ble Supreme Court of India, in the case of M/s. Ashok Leyland Ltd., reported in 134 STC 473.

For petitioner : Mr. S. Rajasekar

For respondents : Mr. S. Kanmani Annamalai,
 Additional Government Pleader

ORDER

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

2. The petitioner is a registered dealer on the file of the second respondent, under the provisions of the Tamil Nadu General Sales Tax Act, 1959 and Central Sales Tax Act, 1956, and engaged in the manufacturing of welding electrodes goods. The challenge in this Writ Petition is to the proceedings of the second respondent, dated 12.11.2004. The said proceeding is only a show cause notice, calling upon the petitioner to submit their objections within the stipulated period.

3. The allegation in the impugned notice is that, CST sales have been camouflaged as branch transfer and consignments sales, and therefore, the second respondent has proposed to revise the assessment made under the CST Act, for the year 2000-01, and also proposed to levy penalty.

4. According to the petitioner, the scope of interference in these

matters has been laid down by the Hon'ble Supreme Court, in the case of **(Ashok Leyland Ltd., Vs. State of Tamil Nadu and another)** reported in **(2004) Vol 134 STC 473** and beyond that scope, the Authority is not justified in re-assessing the concluded assessment.

5. I am of the considered view that, the impugned proceedings, being only a show cause notice, the petitioner should appear before the Authority and submit their objections and produce necessary records, in support of their case. Admittedly, it is not the case of the petitioner that the second respondent has no jurisdiction to issue such notice. It is only the question of interpretation as to what are the documents, which can be examined by the Authority, while revising the assessment, and what can be done by him and what cannot be done by him. All these pleas have to be raised before the second respondent by submitting objections, and not by way of this Writ Petition.

6. For the reasons stated herein above, the Writ Petition is held to be not maintainable. Accordingly, the Writ Petition stands dismissed. The petitioner is granted 30 days' time from the date of receipt of a copy of this

order to submit their objections, after which, the second respondent shall afford an opportunity of personal hearing and pass a speaking order on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

17.07.2017

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Index : Yes/No

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T. S. SIVAGNANAM, J.,

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