IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.07.2017

CORAM

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

W.P.No.39669 of 2004
&
W.M.P.No.47296 of 2004

M/s.P.S.Tea Industries,
Rep.by its Partner,
G.Vonod Chand,
No.21, Mount Pleasant,
Coonoor-2. .. Petitioner

Vs

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,
Coonoor.

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

4.The State of Maharashtra,

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Rep.by its Secretary,
Department of Revenue,
Mumbai.

5.The State of Rajasthan,
Rep.by its Secretary,
Department of Revenue,
Rajasthan.

6.The State of Karnataka,
Rep.by its Secretary,
Department of Revenue,
Bangalore,
Karnataka State.

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

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus,calling for the records on the file of the 2nd Respondent in CST Asst No.337068/1995-1996, dated 19.05.2004 and to quash the same and further to direct the 2nd Respondent to consider the Form- F Declarations with proof of despatch of the goods filed by the petitioner under Section 6A of the CST Act 1956.

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For Petitioner	: Mr.S.Rajasekar.
For Respondents 1 & 2	: Mr.S.Kanmani Annamalai Additional Government Pleader.
Respondents 3 and 4	: No appearance
For Respondent-5	: Mr.N.Murali
For Respondents 6 and 7	: No appearance

ORDER

Heard Mr.S.Rajasekar, the learned counsel for the petitioner, Mr.S.Kanmani Annamalai, learned Additional Government Pleader for respondents 1 and 2, and Mr.N.Murali, learned counsel for respondent No.5, and there is no representation on behalf of respondents 3, 4, 6 and 7, though their names were printed in the causelist.

2. The petitioner is before this Court, challenging the assessment order, dated 19.05.2004, passed by the second respondent, under the provisions of the Central Sales Tax Act, 1956, for the assessment year 1995-96.

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3. The petitioner's case is that, the scope of enquiry, which the Assessing Officer could entertain in these matters is, as per the law 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.**

4. It is submitted by the learned counsel for the petitioner that, though the petitioner filed a detailed objections, the Assessing Officer has failed to deal with any of the objections raised by the petitioner and verbatim reproduced the same in the assessment order.

5. On a perusal of the impugned order, it is evidently clear that, 13 pages of the order contains the proposal in the show cause notice and the objections raised by the petitioner, and the only finding recorded by the Assessing Office is in para No.14 of the impugned order, which is bereft of particulars and it is clearly a non speaking order. The Assessing Officer has abdicated his power in not considering the objections raised by the petitioner. Even assuming that the petitioner has not attended the personal hearing, the respondent ought to have analysed the objections given by the petitioner, which are in a tabulated form.

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http://www.judis.nic.in

6. Thus, it is clear that the impugned order, being a non-speaking order and being devoid of reasons, is in violation of principles of natural justice. Accordingly, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the second respondent for fresh consideration, who shall consider the objections given by the petitioner and afford an opportunity of personal hearing and redo the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

17.07.2017

Index : Yes/No
Internet:Yes/No
sd/klt

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T.S.Sivagnanam, J.

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