IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12192 of 2008
and
M.P.No.1 of 2008

Tvl.Janarthanam Agencies,
No.8C, Vaniyar Street,
Pallipat Taluk,
Tiruttani.
... Petitioner

Vs

The Deputy Tax Officer,
Tiruttani Assessment Circle,
No.94, M.P.S.Salai, Tiruttani. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the order dated 20.07.2007 in Tin No.33121741030 and quash the same.

For Petitioner : Mr.S.N.Kirubhanandham
for Mr.S.Radha Krishnan

For Respondents : Mr.M.Hariharan
Additional Government Pleader

ORDER

Challenging the order dated 20.07.2007 passed by the respondent, the petitioner has come up with this writ petition.

2. According to the petitioner, they are the distributor/agent of Hindustan Lever Limited. Being an assessee under the respondent, they regularly filed their montly returns, without any default. While so, for the assessment year 2006-2007, the petitioner filed Form V claiming input tax credit to the tune of Rs.1,45,397/- on the closing stock as on 31.12.2006. However, the respondent, by the impugned order dated 20.07.2007, rejected the said claim of the petitioner, on the ground of delay. Aggrieved over the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that the impugned order was passed, without issuing any notice, calling upon the petitioner to submit their explanation for the delay in filing Form V statement or without providing any opportunity of personal hearing to them and hence, the same is arbitrary, illegal and against the principles of natural justice. Thus, the learned counsel sought to quash the order impugned herein.

4. The learned Additional Government Pleader appearing for the respondent made his submission supporting the order passed by the respondent. However, he is unable to produce any records to show that such an order was passed, after issuing any notice or providing any opportunity of personal hearing to the petitioner.

5. Heard both sides and perused the records.

6. By the order impugned herein, the respondent rejected the claim of the petitioner with regard to Input Tax Credit, on the ground of delay, stating that the closing stock inventory statement in Form V has to be filed by the dealers on or before 28.02.2007, whereas, the petitioner filed the same only on 05.03.2007. Challenging the same, the petitioner has filed this writ petition.

7. It is an admitted fact that before passing such an order, the respondent has neither issued any notice nor provided any opportunity of personal hearing to the petitioner, to explain the delay in filing the Form V statement.

8. No doubt, denial of reasonable opportunity of hearing by the authority to the petitioner has prejudiced the cause of the petitioner/assessee. The order rejecting the request of the petitioner has visited it with evil and civil consequences and therefore, it is necessary for the authority to have adhered to the principles of natural justice, while passing adverse order against the petitioner.

9. Hence, after thrashing out the matter in its entirety, in the backdrop of facts and circumstances of the instant case and the position of law emerged out in this regard, in my view, the matter requires re-examination by the respondent in strict adherence of principles of natural justice.

10. In such view of the matter, the impugned order dated 20.07.2007 passed by the respondent, cannot be sustained and is accordingly, annulled. The matter is remitted back to the respondent for passing a fresh order, on merits and in accordance with law, after affording an opportunity of personal

hearing to the petitioner. Such an exercise shall be completed by the respondent, within a period of eight weeks from the date of receipt of a copy of this order.

This writ petition stands allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ms/rk

To

The Deputy Tax Officer,
Tiruttani Assessment Circle,
No.94, M.P.S.Salai, Tiruttani.

+1cc to the Special Government Pleader (Taxes) Sr.81474

W.P.No.12192 of 2008
and
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kk[co]
srg 13/02/2019