In the High Court of Judicature at Madras

Dated : 01.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33593 of 2017 &
WMP.Nos.37140 & 37141 of 2017

M/s.Goutham Dyes & Chemicals,
rep.by its Partner Mr.Akshay
Raathore ...Petitioner

Vs

The Assistant Commissioner (CT),
Peddunaickenpet Assessment
Circle, Chennai-1. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN No.33210280112/2017/A3 dated 30.11.2017, quash the recovery notice as illegal and direct the respondent to pass fresh orders on the representation of the petitioner and giving an opportunity of personal hearing as per the circular issued by the Commissioner of Commercial Taxes, Chennai.

For Petitioner : Mr.T.R.Senthilkumar

For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged the recovery notice dated 30.11.2017 calling upon the petitioner to pay tax to the tune of Rs.30,32,364/- under the provisions of the Central Sales Tax Act, 1956 and the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2011-12.

3. The problem has arisen on account of non production of Form F/Bill of Lading/Export Invoice to prove the export

transaction. Earlier, the petitioner had approached this Court by filing W.P.No.9773 of 2017 challenging the assessment order dated 19.12.2016 under the Central Enactment and to direct the respondent to pass revised orders. The said writ petition was disposed of on 06.7.2017 by directing the petitioner to produce C Forms and F Forms within a time stipulated and the Assessing Officer was directed to redo the assessment.

4. It appears that C Forms and F Forms were produced and a demand namely 24 hours notice dated 23.10.2017 has been issued pertaining to high sea sales transactions done by the petitioner.

5. The grievance of the petitioner is that though the petitioner produced documents before the officer to prove their high sea sales transaction, they were refused to be received, presumably on the ground that there was no specific direction in the earlier order passed by this Court to receive those documents.

6. When the Assessing Officer has been directed to reopen the assessment, he is not only empowered to deal with the issues pointed out by this Court, but also should consider the other issues, for which, the petitioner is entitled to produce documents. Therefore, this Court is of the considered view that the assessment should be redone by accepting the documents pertaining to high sea sales transaction and after ascertaining the correctness of those documents, the respondent should redo the assessment.

7. For all the above reasons, the writ petition is allowed, the impugned recovery notice is set aside and the petitioner is directed to appear before the respondent and produce all the documents in their custody especially the documents pertaining to high sea sales transaction and on receipt of the documents, the respondent shall afford an opportunity of personal hearing to the petitioner and pass orders afresh on merits and in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True copy//

Sub Assistant Registrar

RS

To

The Assistant Commissioner (CT),
Peddunaickenpet Assessment Circle, Chennai-1.

+1cc to Mr.K.Mohana Murali, Advocate SR.No.7653

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GN(21/02/2018)