IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.96 of 2012
&
M.P.No.1 of 2012

M/s.Supreme International
65/1, Millers Road
Chennai - 600 010 .. Petitioner

Vs.

1.The Special Committee
Office of the Secretary to Government
Commercial Taxes and Registration Department
Fort St. George, Chennai - 600 009

2.The Commercial Tax Officer
Ayyanavaram Assessment Circle
Kuralagam, Chennai - 600 108 .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent and quash the proceedings in SCP No.58/2011 and Ref.No.M1/18893/2010 dated 04.11.2011 issued therein and direct the second respondent to pass fresh orders under TNGST Act for the year 2003-04.

For Petitioner	:	Mr.C.Baktha Siromoni
For Respondent	:	Ms.Dhanamadhri Government Advocate

O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate appearing for the respondents.

2. The petitioner has challenged an order passed by the first respondent under Section 16D of the Tamil Nadu General Sales Tax Act, 1959 and seeks for a direction to the second respondent to redo the assessment. The power under Section 16D of the Act can be exercised by the Special Committee, if it finds that there has been violation of principles of natural

justice while passing an order by the Assessing Authority or if the order has been passed in violation of the Act or the rules framed thereunder. In the instant case, the petitioner has contended before the first respondent that the Assessment Order has been passed in violation of the principles of natural justice since the revision notice was not served on the petitioner as they have closed the business activities in the State of Tamil Nadu several years back and the petitioner also raised as to how the Assessment Order is contrary to the provisions of the Act and the rules framed thereunder.

3. On a reading of the impugned order passed by the first respondent, I find that the first respondent came to a conclusion that there is no violation of principles of natural justice, since the petitioner did not file objections to the revision notice. However, the points, which was canvassed by the petitioner, stating that there is a violation of the Act and the rules framed thereunder has not been gone into. Even with regard to the issue relating to violation of principles natural justice, the Committee could have examined as to whether the revision notice was served on the petitioner and if not, whether procedure required to be followed for service of notice was adhered to. Since the merits of the matter was not at all gone by the committee, this Court is of the view that order of the Special Committee calls for interference.

4. Taking note of the complicated factual issue involved in this case and the fact that the petitioner had closed the business several years before the order was passed by the first respondent, this Court is of the view that the matter has to be remanded back to the Assessing Officer.

Accordingly, the writ petition is allowed and the order passed by the first respondent is set aside. The petitioner is directed to treat the Assessment orders dated 25.05.2007 and 18.03.2010, for the Assessment years 2003-04 under the Tamil Nadu General Sales Tax Act, as show-cause notice and submit their objections within a period of 30 days from the date of receipt of a copy of this order and on receipt of the objections, the second respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gpa

To

1.The Special Committee
Office of the Secretary to Government
Commercial Taxes and Registration Department
Fort St. George
Chennai - 600 009

2.The Commercial Tax Officer
Ayyanavaram Assessment Circle
Kuralagam, Chennai - 600 108

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.48765

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KJI(CO)
CS/10/08/18