In the High Court of Judicature at Madras

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14397 of 2018 & WMP.No.16997 of 2018

M/s.Omega Enterprises Rep. by
its Proprietrix Mrs.P.Sivalatha ..Petitioner

Vs

1.The State of Tamilnadu, rep.by its Secretary to Government, Department of Commercial Taxes, Fort St. George, Beach Road, Chennai-9.

2.The Commissioner of Commercial Taxes, II Floor, Ezilagam, Chepauk, Chennai-5.

3.The State Tax Officer, Nandampakkam Assessment Circle, Chennai-94. ..Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of assessment for the assessment year 2008-2009 passed by the 3rd respondent in his CST/840215/2008-09 dated 06.4.2018 received by the petitioner on 26.4.2018, quash the same and direct the respondents to afford an opportunity of personal hearing and fresh order for the assessment year 2008-2009.

For Petitioner : Mr.Md.Ibrahim Ali
For Respondents: Mr.M.Hariharan, AGP

ORDER

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

2. The petitioner, which is a registered dealer on the file of the third respondent under the provisions of the Central Sales Tax Act, 1956 and the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the assessment order dated 06.4.2018 for the year 2008-09 under the provisions of the Central Enactment.

3. Though several factual issues have been raised by the learned counsel for the petitioner, it may not be necessary for this Court to go into those aspects, as this Court is satisfied that there is a violation of the principles of natural justice. The third respondent had been issuing repeated notices to the petitioner calling for documents, failing which, she proposed to revise the total turnover. The petitioner submitted their explanation dated 06.4.2018, which has been considered by the third respondent and noted in the impugned assessment order. However, the third respondent proceeded to complete the assessment by stating that certain documents produced by the petitioner were defective.

4. Since the third respondent proposed to revise the turnover and issued notices in that regard, she ought to have afforded an opportunity of personal hearing to the petitioner and then completed the assessment. Further, if there were defective documents, then the documents could have been returned and an opportunity could have been granted to the dealer to rectify the defects. But, this was not done. Hence, this Court is of the view that on e more opportunity can be granted to the petitioner to go before the third respondent.

5. In the light of the above, the writ petition is disposed of with a direction to the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the third respondent shall afford an opportunity of personal hearing, peruse the documents that the petitioner may produce and redo the assessment in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government of Tamilnadu, Department of Commercial
Taxes, Fort St. George, Beach Road, Chennai-9.

2.The Commissioner of Commercial Taxes, II Floor, Elilagam, Chepauk, Chennai-5.

3.The State Tax Officer, Nandampakkam Assessment Circle, Chennai-94.

+1cc to Mr.M.Md.Ibrahim Ali, Advocate Sr.No.38217
+1cc to Special Government Pleader sR.No.38352

SVI(CO)
sm:26.6.2018

WP.No.14397 of 2018&
WMP.No.16997 of 2018