IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.27607 of 2013
&
M.P.No.1 of 2013

SVS Oil Mills
Represented by its Partner
S.V.Chandra Pandian
No.11, Thiruvottiyur High Road
Chennai- 600 019 ... Petitioner

Vs.

1. The Assistant Commissioner (CT)
Thiruvottiyur Assessment Circle
"Wavoo Complex" 3rd Floor
191, NSC Bose Road
Chennai - 600 001

2. The Commissioner of Commercial Taxes
Ezhilagam
Chepauk
Chennai - 600005 ...Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the files of the first respondent herein in his TNGST 1100039/1977-78 to 2004-05 dated 26.07.2013 and quash the same with a direction to furnish details and particulars as requested by the petitioners in their letter dated 03.08.2013 and as per the circular of the second respondent herein in his Acts Cell-VI/13234/2001 dated 20.04.2001.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mr.M.Hariharan
Additional Govt. Pleader

O R D E R

Heard Mr.N.Inbarajan, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader appearing for the respondents.

2.The petitioner, who is a registered dealer on the file of the 1st respondent under the erstwhile Tamil Nadu General Sales Tax Act, 1959, has impugned a proceedings issued by the respondent, which is a demand notice for payment of Rs.8,02,397/- being the interest for the belated payment of tax for the Assessment years 1977-78 to 2004-05.

3.Learned counsel for the petitioner submitted that before issuing the impugned demand, which has been issued under Section 24(3) of the TNGST Act, 1959, notice ought to have been issued by the respondent and an opportunity should have been granted to the petitioner to place their objection. In this regard, reliance has been placed on the circular issued by the Commissioner of Commercial Taxes dated 20.04.2001.

4.On perusal of the material papers, I find that the petitioner has not disputed the non-payment of tax for the Assessment years from 1977-78 to 2004-05 as they remitted a total amount of Rs.2,12,326/- by means of a cheque dated 05.10.2012. Upon making such payment, the petitioner requested for a 'No Due Certificate' to be issued to them. The respondent, taking note of the fact that there has been delay in remittance, sent an intimation for demand of interest under section 24(3) along with the demand notice. The intimation furnishes the due date for payment of tax, date of payment, the amount, number of days of delay and the interest payable for the delay. Thus, if the petitioner disputes the correctness of the computation of the period of delay, the onus is on the petitioner to do so, based on the data furnished by the respondent in the intimation dated 26.07.2013. Thus, in my view, the communication dated 26.07.2013 is in due compliance of the circular issued by the Commissioner dated 20.04.2001.

5. Considering the fact that the impugned proceedings has remained stayed in this writ petition from 2013, this Court is inclined to grant one more opportunity to the petitioner to submit their objections to the computation of period of delay as intimated to the petitioner vide intimation dated 26.07.2013. In case, certain records are not available with the petitioner, then it is open to the petitioner to give a representation to the respondent for a perusal of the assessment file so that the petitioner will be able to submit an effective objection. The

petitioner shall submit their objections to the intimation dated 26.07.2013 within a period of 15 days from the date of receipt of a copy of this order and if the petitioner is able to substantiate that there has been wrong computation of delay, the respondent shall verify the same and proceed in accordance with law.

The writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Assistant Commissioner (CT)
   Thiruvottiyur Assessment Circle
   "Wavoo Complex" 3rd Floor
   191, NSC Bose Road
   Chennai - 600 001

2. The Commissioner of Commercial Taxes
   Ezhilagam
   Chepauk
   Chennai - 600005

+1cc to the Spl. Government Pleader(T), S.R.No.37661

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KK(CO)
BM 28/06/2018