BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.11.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P(MD)No.18408 of 2016
and W.M.P.(MD)No.13253 of 2016

Pelemix India Private Limited,
Represented by its Managing Director,
C.John Kirubakaran ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commercial (CT),
Palani - II Assessment Circle,
Commercial Tax Office,
Shanmugapuram, Palani
Dindigul - 624 001. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the second respondent in TIN 33675362659/ 2013-14 dated 30.12.2015 and quash the same.

For Petitioner : Mr.B.Rooban

For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

O R D E R

The petitioner is an assessee registered with the second respondent. The petitioner is a 100% export oriented unit. The petitioner was issued with the pre-revision notice dated 04.11.2015. The petitioner did not offer any reply. Thereafter, the order dated 30.12.2015 came to be passed by the second respondent. That was followed by an erratum dated 29.04.2016. In the erratum the second respondent informed that what was mentioned as the assessment year 2012-2013 in the order dated 13.12.2015 should be read as for the assessment year 2013-2014. The impugned order as well as the erratum are challenged in this writ petition.

2.Heard the learned counsel on either side.

3.It is true when the pre-revision notice was in respect of assessment year 2012-2013, the final order also will have to be only for the very same assessment year. Notice cannot be ordered for one assessment year and the final order cannot be for another assessment year.

4.In this case, as rightly pointed out by the learned counsel appearing for the petitioner, the erratum was issued only in respect of the final order. No such erratum was issued in respect of the notice. Therefore, the order impugned in the writ petition will have to be set aside. The matter is remitted back to the file of the second respondent. The second respondent shall issue a fresh pre-revision notice to the petitioner and shall pass orders in accordance with law, after affording opportunity of personal hearing to the petitioner.

5.The petitioner did not respond to the notice issued by the second respondent. Therefore, the petitioner will have to be necessarily put on terms. Therefore, even as I allow this petition, this Court imposes cost of Rs.2,000/-, payable to the second respondent, on the petitioner. This cost shall be paid within a period of four weeks from the date of receipt of a copy of this order. This Writ Petition is allowed on these terms. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To
1.The Commissioner of Commercial Taxes,
O/o.the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commercial (CT),
Palani - II Assessment Circle,
Commercial Taxe Office,
Shanmugapuram, Palani
Dindigul - 624 001.

+1cc to M/s.Special Government Pleader,SR.No.97744

W.P(MD)No.18408 of 2016

GNS/LS
KK/SAR-/28.03.2019/2P-4C