IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.25261 of 2006
and
M.P.No.1 of 2006
and
W.M.P.No.4163 of 2019

Tvl.MAJ Beedi Manufacturers,
Rep. by its Proprietor
Mr.Faziur Rahman,
No.7D, Subedhar Abdullah Khan Street,
Rahanathpala, Vellore. ...Petitioner

Vs

1. The Deputy Commercial Tax Officer-I,
   Vellore North Assessment Circle,
   C.T.Buildings,
   Fort Round, Vellore - 1.

2. The Appellate Assistant Commissioner (CT),
   C.T.Buildings,
   Fort Round, Vellore - 1. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records of the 1st respondent in CST No.623521/2003-04 dated 09.05.2005 and the connected revisional proceedings dated 16.02.2006 and quash the same as illegal, arbitrary and against the provision of the Act.

For Petitioner : Mr.K.Soundararajan

For Respondents: Mr.Mohammed Shaffiq, Spl.GP

O R D E R

One of the main grounds raised by the petitioner in the present writ petition challenging the assessment order is that the Assessing Officer had observed that there are minute differences found to the naked eye between the check post copy and the dealer's copy and therefore, has come to the conclusion that the dealers have maintained a duplicate set of invoices during the assessment year 2003-04. On such an observation, the Assessing Officer had added an amount of Rs.5,94,855/-, which is three times for probable omission and defects.

2. The learned counsel for the petitioner submitted that the aspect of inter-state sale of goods requires to be established by the Assessing Officer, for the purpose of levying any tax on the probable omission and defects. The learned counsel would also submit that there is no clarity in the order, as to how the Assessing Officer had determined the probable omission and defects.

3. The learned Special Government Pleader appearing for the respondents would submit that the Assessing Officer had come to the conclusion on the basis of his best of judgment on the available materials, which powers are vested with him under Section 9(2) of the Central Sales Tax Act and therefore, there is no infirmity in the order.

4. In my view, if the Assessing Officer had given further details, as to on what basis he had applied his best of judgment, the petitioner would have had the benefit of challenging such an order before the Appellate Authority and in view of the lack of details in the assessing order, as to how the best of judgment was applied by the Assessing Officer, it would be appropriate to direct the Assessing Officer to re-consider the issue afresh.

5. In the light of the aforesaid observations, the impugned assessment order dated 09.05.2005 for the assessment year 2003-04, is set aside and the matter is remanded back to the 1st respondent for fresh consideration, after giving due opportunity of personal hearing to the petitioner. The Assessing Officer shall endeavour to complete the assessment, as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

hvk

To

1. The Deputy Commercial Tax Officer-I,
   Vellore North Assessment Circle,
   C.T.Buildings,
   Fort Round, Vellore - 1.

2. The Appellate Assistant Commissioner (CT),
   C.T.Buildings,
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+1 cc to M/s.Special Government pleader sr72201

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