IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2019

CORAM:

THE HON'BLE MR. JUSTICE M.S. RAMESH

W.P.No.17206 of 2008
and M.P.No.2 of 2008

M/s.Krishna & Co.,
13-A, Manickapuram Road,
Palladam. ...Petitioner

vs.

The Deputy Commercial Tax Officer,
Palladam. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to call for the records of the respondent in TNGST/6240035/2004-05 and quash the proceedings dt.30.05.2008 issued therein and further direct the respondent to follow the circular issued by the Commissioner of Commercial Taxes, Chennai in Acts Cell I/40003/2002 dt.27.6.2002.

For Petitioner : Mr.K.J.Chandran

For Respondent : Mr.V.Haribabu
Additional Government Pleader

ORDER

The prayer sought for in the present writ petition is to call for the records of the respondent in TNGST/6240035/2004-05 and to quash the proceedings dated 30.05.2008 issued therein and further to direct the respondent to follow the circular issued by the Commissioner of Commercial Taxes, Chennai in Acts Cell I/40003/2002 dt.27.6.2002.

2.Heard both sides and perused the materials available on record.

3.One of the main grounds raised by the petitioner is that the order impugned is a non-speaking order since a specific stand was taken by the petitioner by way of a reply to the notice dated 31.01.2007, wherein they had denied of holding any trademark of "KC Agmark Ghee". The very basis for which the petitioner has been made liable under Section 3-J of the TNGST Act is that he holds the trademark of "KC Agmark Ghee" and such a decision has been arrived at in the impugned order, without reference to the objections made by the petitioner nor substantiating as to how such a decision was arrived at. As such, the non-consideration of the objections raised by the petitioner and the reasons for arriving at a conclusion by the respondent could be termed as a non-speaking order and hence the petitioner would be justified in invoking Article 226 of the Constitution of India and as such, it would be appropriate that the matter be reconsidered by the respondent afresh.

4.In the light of the above observations, the impugned circular No.Acts Cell I/40003/2002 dated 27.6.2002 issued by the Commissioner of Commercial Taxes, Chennai is set aside and the matter is remanded back to the respondent for a fresh consideration. The petitioner is permitted to submit additional objections along with any other documents he wishes to rely upon, within a period of 30 days from the date of receipt of a copy of this order. On receipt of the same, the respondent herein shall consider the same on its own merits and pass appropriate orders in accordance with law, as expeditiously as possible.

5.With the above observation and direction, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connection miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commercial Tax Officer,
Palladam.

2.The Commissioner of Commercial Taxes,
Chennai.

+1cc to Mr.B.Raveendran, Advocate SR.No.66106
+1cc to The Special Government Pleader(Taxes) Sr.No.66479

AKM/18.09.19 /2P-5C/

W.P.No.17206 of 2008
and M.P.No.2 of 2008