IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.Nos.34684 & 34685 of 2006
and
M.P.No.2 of 2006 in W.P.No.34684 of 2006
and
M.P.No.1 of 2006 in W.P.No.34685 of 2006

M/s.Prince Polymo,
Rep. by its Managing Partner
Mr.G.Mohammed Ashtaq,
Abdullapuram,
Vellore, Vellore District. ...Petitioner in both WPs

Vs

The Commercial Tax officer,
Vellore (Rural), Vellore,
Vellore District. ...Respondent in both WPs

PRAYER in W.P.No.34684 of 2006: 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 respondent in TNGST No.4322776/2004-05 Vellore (Rural) dated 28.04.2006 and quash the same.

PRAYER in W.P.No.34685 of 2006: 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 respondent in TNGST No.4322776/2004-05 Vellore (Rural) dated 16.06.2006 and quash the same.

For Petitioner : Mr.N.Murali Kumaran
(in all WPs) for M/s.McGan Law Firm

For Respondent : Mrs.Dhanamadhri, GA
(in all WPs)

C O M M O N   O R D E R

The stand of the petitioner is that in view of the notification granting reduction in respect of the tax payable by any dealer on the sale of goods inside the state, out of raw materials/components imported to the extent of the amount of entry tax paid without any refund under the Tamil Nadu Tax on Entry of Goods in Local Areas Act, 2001, the assessment order itself is illegal. The learned counsel for the petitioner would also submit that this objection could not be raised, since no show cause notice was issued prior to the passing of the order.

2. A perusal of the order also does not reveal that the petitioner was called upon to give his objections on this aspect. As such, the order itself could be termed to be in violation of the principles of natural justice and hence, cannot be sustained.

3. In the light of the above observations, the impugned assessment orders dated 28.04.2006 and 16.06.2006 are set aside and the matters are remanded back to the respondent herein for fresh consideration, after giving a fresh show cause notice calling upon the petitioner to furnish his objections. On receipt of such objections furnished by the petitioner, if any, the respondent shall consider same, as expeditiously as possible and pass appropriate orders in accordance with law.

4. Accordingly, both the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

hvk

To

The Commercial Tax officer,
Vellore (Rural), Vellore,
Vellore District.

+1cc to M/s.McGan Law Firm Advocate, S.R.No.67939
+1cc to the Spl.Government Pleader(Taxes), S.R.No.68706

SS(CO)
CB(23/09/2019)

W.P.Nos.34684 & 34685 of 2006
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