IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.36637 of 2006
and
M.P.No.1 of 2006

M/s.Senthil Textiles,
Represented by its Managing Partner,
Sri A.P.Velusamy,
302, Andipalayam,
Mangalam Road,
Tirupur - 641 687. ...Petitioner

Vs

1.The Appellate Assistant Commissioner (CT),
Pollachi.

2.The Commercial Tax Officer,
Tirupur Rural Assessment Circle,
Tirupur. ...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 on the files of the 1st respondent in A.P.No.203/02 dated 27.3.06 and quash the same in so far as the order of remanding back to the 2nd respondent with regard to the levy of penalty under Section 12(3)(b) is concerned.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.V.Haribabu
Additional Government Pleader

O R D E R

Aggrieved against the order of the 1st respondent herein, insofar as it relates to remanding the matter back to the Assessing Officer to decide whether the penalty under Section 12 (3)(b) of the TNGST Act is attractive or not, the present Writ Petition has been filed.

2. The learned counsel for the petitioner has raised several grounds challenging the order of remand by the 1st respondent herein. In my view, these grounds cannot be maintained in the writ petition where the order impugned is only a matter of remand and such grounds can be raised before the Assessing Officer. In other words, the alternate remedy available to the petitioner is to go before the Assessing Officer and raise all these points and as such, interference under Article 226 of the Constitution of India, may not be proper. Nevertheless, if the petitioner is given liberty to raise these grounds before the 2nd respondent herein, the ends of justice could be secured.

3. In the light of the above observations, the 2nd respondent herein is called upon to issue a notice to the petitioner herein and the petitioner in turn is granted liberty to give their objections to the notice, within a period of 15 days from the date of receipt of a copy of this order. On receipt of such objections, the 2nd respondent herein shall consider the same, in the light of the observations made by the 1st respondent in the order dated 27.03.2006 and pass appropriate orders on its own merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner, as expeditiously as possible.

4. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

jas/hvk

To

1.The Appellate Assistant Commissioner (CT),
Pollachi.

2.The Commercial Tax Officer,
Tirupur Rural Assessment Circle,
Tirupur.

W.P.No.36637 of 2006
and
M.P.No.1 of 2006

sv(co)
nr 30/09/2019