IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.36663 of 2006
and
M.P.No.2 of 2006

M/s.Kinetic Honda Motor Company,
Rep. by its Depot Manager at Vellore
Mr.S.P.Bhakthavatsalam
19, Byepass Road,
Vellore. ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Gudiyatham (East),
Vellore District. ...Respondent

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 respondent in TNGST No.4240787/03-04 dated 24.03.2006 and quash the same.

For Petitioner : Mr.N.Muralikrishnan
for Mc GAN Law Firm

For Respondent : Mr.Mohammed Shaffiq, Spl.GP

O R D E R

The levy of entry tax for the assessment year 2003-04 is under challenge in the present writ petition.

2. The learned counsel for the petitioner would submit that in view of G.O.Ms.No.26/CTRE, dated 25.01.1994, the sale to the Canteen Stores Department is exempted, which aspect has not been considered in the impugned order and therefore, the order is liable to be set aside.

3. The learned Special Government Pleader appearing for the respondent, on the other hand, would submit that the notification in G.O.Ms.No.26, dated 25.01.1994 is not applicable to the petitioner and since there was no exemption prior to 2005, there is no infirmity in the order.

4. The fact remains that the petitioner, who claims benefit of the exemption under G.O.Ms.26, dated 25.01.1994, has not chosen to place such an objection before the Assessing Officer and in that background, the assessment order cannot be normally found fault with. Nevertheless, since the petitioner has now brought to the notice of this Court that the exemption under G.O.Ms.No.26, would also cover a dealer like the petitioner herein, it would be appropriate to give them an opportunity to put forth such objections before the respondent herein.

5. In the light of the above observations, the impugned order dated 24.03.2006, is set aside and the matter is remanded back to the respondent herein for a fresh consideration. The petitioner is granted liberty to file his fresh objections to the earlier Show Cause Notice dated 23.02.2006, within a period of 15 days from the date of receipt of copy of this order. On receipt of such objections, if any, the respondent shall consider the same and pass appropriate orders in accordance with law, after giving due opportunity of personal hearing to the petitioner, as expeditiously as possible.

6. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

hvk

To
The Deputy Commercial Tax Officer,
Gudiyatham (East),
Vellore District.

+1cc to M/s.Mc GAN Law Firm*, Advocate SR.No.66467

W.P.No.36663 of 2006
and
M.P.No.2 of 2006

VG I(CO)
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