IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.8058 of 2009
and
M.P.No.2 of 2009

Tvl.Suriya Aluminium Glaazing
Represented by its Proprietor
B.Mahendra Prasad ...Petitioner

Vs

The Commercial Tax Officer,
Saligramam Assessment Circle,
Chennai – 600 083. ...Respondent
(Cause title amended as per Court order dated 15.05.2009 in M.P.No.3 of 2009 in W.P.No.8058 of 2009)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in R.C.No.811 of 2007 (T.N.G.S.T. 2001-02) dated 20.02.2009 quash the same and direct the respondent to furnish copies of the D7 records and provide an opportunity of being heard.

For Petitioner : Mr.S.Ravee Kumar

For Respondent :Mr.Mohamed Shaffiq
Special Government Pleader (Taxes)

O R D E R

Challenging the levy of taxes as well as the penalty levied for the year 2001 - 2002, the petitioner herein has filed the present writ petition.

2. Among the various grounds raised in the present writ petition, one of the grounds raised is that the petitioner herein had earlier raised his objection vide a letter dated 16.02.2009 seeking for furnishing copies of D7 records, which according to them, were seized at the time of inspection by the

authorities. Since the present impugned order has been made without furnishing D7 records and without considering the objections raised by the petitioner herein, the learned counsel for the petitioner sought for remanding the matter for fresh consideration after an opportunity is given to them by furnishing a copy of D7 record and permitting them to give their objections.

3. A copy of the letter dated 16.02.2009 has been produced before this Court wherein the petitioner herein had specifically stated that they would file their objections on receipt of a copy of D7 records.

4. In such circumstances, the request of the petitioner for a copy of D7 records seems acceptable, since it would be deprive than from making effective objections to the proposed levy of tax and penalty. As such, it would be appropriate to direct the respondent to furnish the copies of the documents of the petitioner herein for the purpose of giving his objections.

5. In the light of the above observations, the impugned order dated 20.02.2009 passed in R.C.No.811 of 2007 on the file of the respondent herein is set aside and consequently, the matter is remanded back to the respondent herein for fresh consideration.

6. The petitioner is also granted liberty to make fresh request for a copy of D7 records and on receipt of such requisition, the respondent herein shall endeavour to furnish the same to the petitioner at least within a period of 30 days from the date of receipt of a copy of such representation. Thereafter, the petitioner shall file their objections within a further period of 30 days from the date of receipt of a copy of D7 records. The respondent shall consider such objections on its own merits and pass appropriate orders as expeditiously as possible, in any event, within a period of three months from the date of receipt of such objections, if any. While passing the final orders, the respondent shall give an opportunity of personal hearing to the petitioner herein during the course of enquiry.

7. The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Saligramam Assessment Circle,
Chennai - 600 083.

+1cc to the Special Government Pleader Sr.50809
+1cc to Mr.S.Raveekumar, Advocate Sr.50323

W.P.No.8058 of 2009

sv[co]
srg 14/08/2019