IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.39386 of 2004
and
W.M.P.No.46963 of 2004

M/s.Euerka Systems and
Electronics (P) Ltd.,
Rep. by its Managing Director
K.Chandrashekar,
No.11/15-A, Selvarajapuram,
Chinthamanipudur,
Coimbatore - 641103. ...Petitioner

Vs

1. The State of Tamilnadu,
   Rep. by its Secretary to Government,
   Commercial Taxes and Religious
   Endowments, Fort.St.George,
   Chennai - 600009.

2. The Deputy Commercial Tax Officer,
   Palladam.

3. The State of Andhra Pradesh,
   Rep. by its Secretary,
   Department of Revenue,
   Hyderabad, Andhra Pradesh.

4. The State of Kerala,
   Rep. by its Secretary,
   Department of Revenue,
   Tiruvananthapuram,
   Kerala State.

5. The Union Territory of India,
   Rep. by its Secretary,
   Department of Revenue,
   New Delhi. ...Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 2nd respondent in CST No.750340/2001-2002 dated 12.11.2004, quash the same and further direct the 2nd respondent to consider the Form F Declarations with proof of dispatch of the goods filed by the petitioner under Section 6A of the CST Act, 1956 and pass appropriate orders in the light of the law laid down by the Hon'ble Supreme Court in the case of M/s.Ashok Leyland Ltd., reported in 134 STC 473.

For Petitioner : Mrs.R.Hemalatha

For Respondents: Mrs.Dhanamadhri, GA for R1 & R2
No Appearance for R3 & R4
Mr.J.Madhanagopal Rao, SCGSC for R5

O R D E R

The writ petition has been filed challenging a notice dated 12.11.2014, reopening the assessment for the year 2001-02. The grounds raised in the present writ petition is that the respondents have no authority to reopen the assessment, since it is contrary to the decision of the Hon'ble Supreme Court in the case of M/s.Ashok Leyland Ltd., reported in 134 STC 473.

2. In my view, such an objection can also be put forth before the respondents by way of a reply to the notice and this Court may not be justified in interfering with the notice at this point of time. Nevertheless, if liberty is granted to the petitioner to give his objections, the ends of justice would be secured.

3. In the light of the above observations, the petitioner is granted liberty to give his objections to the impugned Show Cause Notice dated 12.11.2004, within a period of 15 days from the date of receipt of copy of this order and on receipt of such objections, the respondents herein shall consider the same on its own merits and pass appropriate orders in accordance with law, as expeditiously as possible, after giving due opportunity of personal hearing to the petitioner herein.

4. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
The State of Tamilnadu,
Commercial Taxes and Religious
Endowments, Fort.St.George,
Chennai - 600009.

2. The Deputy Commercial Tax Officer,
Palladam.

3. The Secretary,
The State of Andhra Pradesh,
Department of Revenue,
Hyderabad, Andhra Pradesh.

4. The Secretary,
The State of Kerala,
Department of Revenue,
Tiruvananthapuram,
Kerala State.

5. The Secretary,
The Union Territory of India,
Department of Revenue,
New Delhi.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.65764
+1cc to the Special Government Pleader, S.R.No.66050

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NMI(CO)
CS/05/09/2019