IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.32021 of 2005
W.P.M.P.No.35035 of 2005

Tvl.Sunita Color Graphics,
Represented by its propx.
Sunita Daga,
No.27, Hunters Road,
Chennai-600112. ... Petitioner

Vs

The Commercial Tax Officer (FAC),
Purasawalkam Assessment Circle,
Kuralagam annexe III Floor,
Chennai- 600 108. ..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the respondent pursuant to his proceedings in TNGST.0481901/2003-04 dated 30-06-2005 served on the petitioner on 30.07.2005 and quash the same.

For Petitioner : S.Mohan

For Respondent : Mr.M.Hariharan
AGP (Taxes)

O R D E R

The order dated 30.06.2005 issued by the Commercial Tax Officer (FAC)/Assessing Officer is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the assessment order had been passed by the respondent without even scrutinizing the documents produced by the writ petitioner and the facts and details submitted by way of explanation/ representation. In the absence of verification of all such details, the assessment order now

impugned in the Writ Petition is to be construed as erroneous and not in accordance with law.

3. The learned counsel for the petitioner further states that the respondent had not followed the principles of natural justice, by providing an opportunity to the Writ Petitioner to put-forth his case by producing documents and by adducing evidence/statement before the Assessment Officer.

4. The learned Additional Government Pleader (Taxes) opposed the contentions by stating that opportunity was provided to the Writ Petitioner and the petitioner had not availed the same and therefore, the Writ Petition is liable to be rejected. This apart, statutory appeal is provided under the Act, more specifically, under Section 31 of the Act. Thus, the petitioner has to exhaust the appeal remedy provided under the Act.

5. Considering the fact that the Writ Petition is pending for the past 13 years, and further considering the fact that the grievances of the Writ Petitioner in respect of providing of opportunity has not been fully complied with, and the learned counsel for the Writ Petitioner states that the petitioner is ready and willing to produce all such documents before the Assessing Officer, enabling him to establish his case, this Court is inclined to consider the present Writ Petition. Accordingly, the impugned assessment order issued by the respondent in proceeding TNGST.0481901/2003-04 dated 30.6.2005 is quashed and the matter is remanded back to the respondent.

6. The Writ Petitioner is directed to produce all the documents/ information/ particulars before the respondent, within a period of four weeks from the date of receipt of a copy of this order. On a verification of the records, if any produced by the Writ Petitioner, the respondents shall scrutinize the same and thereafter, conduct enquiry by following the proceedings contemplated under the Act and by affording opportunity to the Writ Petitioner, and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.

7. The Writ Petition stands allowed. There shall be no order as to costs.

8. If the petitioner has not responded to this order, then the respondent is at liberty to initiate all further proceedings in accordance with law.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

tar

To

The Commercial Tax Officer (FAC),
Purasawalkam Assessment Circle,
Kuralagam annexe III Floor,
Chennai- 600 108.

+1cc to Mr.S.Mohan, Advocate Sr.742
+1cc to the Special Government Pleader Sr.1140

W.P.No.32021 of 2005

gp[co]
srg 02/03/2018