IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.S.RAMESH

W.P. 9625 of 2011
and
M.P. 1 of 2011

M/s.Surana Spices (P) Ltd.,
No.15, Nethaji Street,
Water Works Road,
Erode-3. ... Petitioner

Vs

The Commercial Tax Officer (FAC),
Chithode Circle,
Erode. ... 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 impugned notice in CST 777970/03-04 dated 01.04.2011 from the files of the respondent herein, quash the same.

For Petitioner : Ms.Aparna Nandakumar

For Respondent : Mrs.Dhanamadhri,
Govt. Pleader

O R D E R

The notice under challenge in the Writ Petition is to call upon the petitioner to give his explanation as to why criminal proceedings should not be initiated for an alleged production of 'C' form license when no such dealer was present under Sec.4 of Code of Criminal Procedure Code or in the alternative to pay tax at 12.6%.

2. On perusal of show cause notice, it reveals that it has been issued pointing out the defect that bogus 'C' form has been filed by the petitioner/assessee for the assessment year 2003-2004 and no such dealer at Assam. However, the ground raised in the present Writ Petition is that the petitioner was the selling dealer and he has relied upon the representation of the purchasing dealer and submitted 'C' form with the bonafide

belief that the purchasing dealer was genuine. Further, the purchasing dealer was a registered dealer at that point of time viz., 2003-2004 and the subsequent cancellation of registration certificate, if any, would not come to the knowledge of the petitioner.

3. The learned counsel appearing for the petitioner would submit that the notice is barred by limitation for imposing tax as mentioned therein. The learned counsel would further submit that the notice itself is bereft of any particulars as to how the respondent could demand tax belatedly with regard to the alleged offence of production of bogus 'C' form.

4. In my view, all these objections could be raised before the respondent by way of reply and this Court is not inclined to quash the show cause notice.

5. In the light of the above observation, the petitioner is granted liberty to give his objections to the impugned show cause notice together with a request for furnishing any of documents, on which the respondent placed reliance for initiating further action within a period of fifteen days from the date of receipt of the copy of this order. On receipt of such objection, the respondent shall give due opportunity to the petitioner and pass appropriate orders in accordance with law within a period of two months. Accordingly, the present Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

rpp

To

The Commercial Tax Officer (FAC),
Chithode Circle, Erode.

+1cc to the Special Government Pleader (Taxes), S.R.No. 57673

W.P. 9625 of 2011
and
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VBA(CO)
GN(22/08/2019)