IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 2013 of 2016
and
W.M.P. No. 1750 of 2016

M/s. Shree Sadguru Tea Company,
Represented by its Proprietor - Chandrakant
Premji Shingala,
No.87-A, Fairy Bank Road,
Coonoor,
The Nilgiris - 643 101. ... Petitioner

Vs

1. The Assistant Commissioner (CT),
Coonoor, The Nilgiris.

2. The Assistant Commissioner (CT),
Thudiyalur Circle,
Coimbatore. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the Second Respondent in his impugned proceedings made in TIN No.33782540529/2006-2007 to 2010-2011/A3 dated 20.11.2015 and quash the same as illegal and arbitrary.

For Petitioner : Mr. S. Rajasekar
For Respondents : Mr. M. Hariharan
Additional Government Pleader

ORDER

The present writ petition has been filed by the Petitioner seeking for the issuance of Writ of Certiorari, to call for the records on the file of the Second Respondent in his impugned notice made in TIN No.33782540529/2006-2007 to 2010-2011/A3 dated 20.11.2015.

2. The Petitioner had been served with notices dated 15.10.2012 for the various Assessment Years under Central Sales Tax Act, 1956 and Tamil Nadu Value Added Tax Act, 2006 which ultimately culminated in the orders which according to the

Petitioner were passed without awaiting a reply from the Petitioner and the orders were not served on the Petitioner in the manner known to law in terms Rule (19) of the Tamil Nadu Value Added Tax Rules, 2007.

3. The Petitioner has thus challenged the demand notice and has submitted that the demand in the impugned order dated 20.11.2015 was in gross violation of principles of natural justice. The learned counsel for the Petitioner therefore submits that since the order has been passed without proper notice and without proper service of the Assessment Orders pursuant to the notices dated 15.10.2012, the impugned demand notice was also liable to be quashed.

4. Per contra, Mr. M. Hariharan the learned Additional Government Pleader submits that the Petitioner refused to receive the order is passed on 03.01.2014. He further submits that the attempt to serve notice through the registered post was also returned with an endorsement "unclaimed". The learned Additional Government Pleader has now produced copies of respective notices dated 15.10.2012 and orders dated 03.01.2014. A copy of the respective notices and orders were also served on the learned counsel for the Petitioner.

5. Though it appears that the Petitioner has been recalcitrant assessee who had fail to maintain records and file returns, nevertheless fact remains that before the impugned orders were passed there was no effective service of a notice on the Petitioner. In any event the arrears of tax which was determined in the respective impugned orders dated 03.01.2014 have also not been paid till date perhaps on account of the pendency of the present writ petition.

6. Be that as it may, on one opportunity can be given to the Petitioner. The Petitioner may at its option file replies to the notices dated 15.10.2012 by treating the impugned orders dated 03.01.2014 as corrigendum to the respective notices within a period of 30 days from date of receipt of this order.

7. If such replies filed by the Petitioner, the Respondent shall call upon the Petitioner for a personal hearing before passing final orders for the respective assessment years within a period of 30 days thereafter. In case the Petitioner fails to corporate in the de novo proceedings, liberties are given to the Respondents to proceed in accordance with the law to recover tax due determined under the impugned order.

8. Writ Petition stands thus disposed with the above observation. Consequently, connected Writ Miscellaneous Petition is closed. No costs.

-s/d-
Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

arb

To

1. The Assistant Commissioner (CT),
   Coonoor, The Nilgiris.

2. The Assistant Commissioner (CT),
   Thudiyalur Circle,
   Coimbatore.

+1 CC to Mrs.R. Hemalatha, Advocate sr 105503.
+1 CC to The Spl. Govt. Pleader(T) sr 106586

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EV(CO)
SP(21/02/2020)