IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.35184 of 2013
and
M.P.No.1 of 2013

Tvl.Sun Oil Trade,
No.5/17, Raman Nagar, Lakshmipuram,
Kolathur, Chennai-99. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Villivakkam Assessment Circle,
Chennai. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in CST/1050649/2012-13 dated 29.11.2013 and to quash the same as illegal, unconstitutional and to direct the Respondent to pass fresh orders after granting an opportunity to the petitioner firm to produce their books of account.

For Petitioner : Mr.A.Ravichandran
For Respondent : Mr.V.Haribabu
Additional Government Pleader

ORDER

The sole ground argued by Mr.A.Ravichandran, learned counsel appearing for the petitioner, challenging impugned order of assessment dated 29.11.2013 for the period 2012-2013 passed in terms of the provisions of the Central Sales Tax Act, 1959, is that no effective opportunity, or any opportunity at all, has been afforded to the assessee while passing the impugned order. A notice was issued on 01.10.2013 by the Assessing Authority proposing to treat the entire turn over of the petitioner as a local sales liable to tax at the rate of 4% and disallowing the claim for exemption of stock transfer. Penalty was also proposed to be levied.

2.The petitioner initially sought an adjournment on 29.10.2013 seeking some time to produce the necessary documents. The request was reiterated on 14.11.2013 on the ground that the accountant, who was in charge of the maintenance of the accounts of the Kerala office had been admitted in hospital. Since his discharge was imminent, a period of twenty (20) days was sought

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for production of required records. Rejecting the aforesaid request, the impugned order has been passed wherein the Assessing Authority states that the petitioner has been seeking adjournments repeatedly indicating to him, that they had no valid objections to be filed.

3.In my considered view, the opportunity extended by the Assessing Officer was not adequate and the Assessing Authority should atleast have indicated to the assessee that the request for time had been rejected and that he was proposing to proceed with the assessment. This has also not been done.

4.Thus the impugned order of assessment is set aside. After receipt of the impugned order of assessment, the petitioner has sent a representation dated 02.12.2013 enclosing the necessary Forms and required particulars in support of its claim for exemption. In the light of the fact that the impugned order is set aside, the petitioner will appear before the respondent on Friday, the 8th of November, 2019 at 10.30 a.m. without expecting any further notice in this regard, along with a copy of its objections/representation dated 02.12.2013 and supporting documents. After consideration of the same and after hearing the petitioner, an order of assessment de novo over shall be passed by the Assessing Authority within a period of four weeks from date of conclusion of the personal hearing.

5.This writ petition is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

vs

To

The Assistant Commissioner (CT),
Villivakkam Assessment Circle,
Chennai.

+1cc to Mr.A.Ravichandran, Advocate, S.R.No. 90967
+1cc to the Special Government Pleader(Taxes), S.R.No. 91284

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and
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RSK(CO)
GN(06/11/2019)

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