BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2019**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.10446 of 2015

and

M.P.(MD)No.1 of 2015

Tvl.Sahayamatha Salterns P. Ltd.,
Represented by its Managing Director Thiru.Micheal Motha,
100, South Cotton Road,
Tuticorin. ... Petitioner

/Vs./

1.The Additional Commercial Tax Officer,
Tuticorin – II,
Tuticorin-Dt.

2.The Commissioner of Commercial Taxes,
Elilagam, Chepauk,
Chennai – 600 005. ... Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to proceedings of the 1st respondent issued in CST Assessment No.466330/200203 dated 20.02.2015 received on 26.02.2015 and quash the same and to direct the 1st respondent to pass order after considering the objections and after affording an opportunity of being heard to the petitioner for the assessment under CST Act for year 2002-2003.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.R.Murugan
Additional Government Pleader

ORDER

The petitioner assails an order dated 20.02.2015 passed in terms of provisions of the Central Sales Tax Act, 1956, for the period 2002-03. The short plea raised is that pursuant to notice dated 17.12.2014 calling for various particulars in support of the petitioners' returns, to which admittedly there has been no response from the petitioner, a pre-assessment notice was issued on 02.01.2015. In conclusion, the respondent states thus:-

> '*Objection if any may be filed in writing at my office within 10 days from the date of receipt of this notice necessary orders will be passed based on the materials available in this office. You are also accorded a personal hearing in connection with submitting the accounts. Please produce the Auditor's report for the year 02-03.*'

2. Thus, without fixing a specific date and time of hearing, the petitioner is merely called upon to file objections, produce

audited reports and appear, all within (ten) 10 days from the date of receipt of notice.

3. I am of the view that such opportunity extended to the petitioner is mere eyewash. Normally, written objections and supporting materials are to be received from an assessee for study and verification by the assessing officer. If the objections are accepted, there ends the matter. In the event of any points of difference subsisting, the assessee must be called upon to appear personally or through authorised representative, to explain its case.

4. Thus, in order to be effective, it is necessary that sufficient opportunity is granted to the petitioner to submit objections on a date and time fixed for the purpose, and the petitioner be extended a personal hearing thereafter, again on a specified date and time.

5. In the light of my observations as above, the impugned order is set aside. The petitioner will appear before the assessing officer on **07.08.2019 at 10.30 a.m.**, along with all materials in support of his stand. An order of assessment shall be passed *de novo* after hearing the petitioner and in accordance with law, within a period of four weeks from the date of conclusion of the personal hearing.

6. This Writ Petition is disposed of in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Crl Side)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Additional Commercial Tax Officer,
Tuticorin – II,
Tuticorin-Dt.

2.The Commissioner of Commercial Taxes,
Elilagam, Chepauk,
Chennai – 600 005.

+1 cc Mr.A.S.MUJIBUR RAHMAN ,Advocate, SR.No. 77426
+1cc to M/s.Special Government Pleader,SR.No. 77697

W.P.(MD)No.10446 of 2015
24.07.2019

SM
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