BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.2975 of 2015
and
M.P(MD)No.1 of 2015

Tvl. Aruppukottai Shri Ramalinga Roller
Flour Mills Limited,
Rep. By its Director V.Premsubbaraj,
No.3/315, TRS Nagar,
Aruppukottai. ... Petitioner

Vs.

The Commercial Tax Officer,
Aruppukottai. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent herein in CST No.502982/2006-07 dated 24.12.2014, quash the same as violative of the principles of natural justice, illegal, unsustainable and direct the respondent to pass orders afresh after considering the petitioner's objections and 24 Nos. of Original F Forms filed by the petitioner on 02.09.2010 the receipt of which is duly acknowledged by the respondent..

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.R.Murugan,
Additional Government Pleader.

ORDER

The petitioner challenges an order of assessment dated 24.12.2014 for the period 2006-07 under the provisions of the Central Sales Tax Act, 1956 (in short 'Act').

2.The order brings to tax turnover from interstate sales, of a quantum of Rs.6,37,38,445/-, on the ground that requisite declaration forms with regard to the concessional rate of tax claimed by the petitioner have not been produced. In response to a pre-assessment notice dated 18.02.2010, the petitioner has, on 02.09.2010, filed a reply enclosing 24 Original 'F' declaration forms. An extract of the despatch register is placed at page 28 of the typed set of papers, wherein the reply dated 02.09.2010 and the annexures, viz., Original 'F' declaration forms, have been received by the Superintendent on 03.09.2010.

3.After a lapse of more than four years, a pre-assessment notice has been issued on 19.11.2014 yet again. Though the petitioner claims to have filed a reply to the same, no reply or acknowledgment of receipt for such alleged reply is available on file.

4.Be that as it may, the impugned order of assessment confirms the proposal contained in the pre-assessment notice without reference to the receipt of reply dated 02.09.2010 and the enclosures. Perhaps, the respondent is not aware of the reply having been filed, seeing as there is considerable elapse of time between the two dates. In any event, in the interest of both parties as well as in the interests of justice, the impugned order of assessment is set aside.

5.The petitioner will appear before the Assessing Authority on 19.08.2019 at 10.30 a.m., along a copy of the reply dated 02.09.2010 and copies of the 'F' declaration forms filed earlier. Upon consideration of the same, the respondent shall pass orders *de novo* within a period of four weeks from the date of conclusion of personal hearing. No further notice need be issued in this regard.

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

Sd/-
Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Aruppukottai.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-80915[F] dated 09/08/2019)

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ps
JM/30.08.2019/2P/3C