IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 11892 of 2006
and
W.M.P. No. 13491 of 2006

Tvl. Jansons Textiles Processors,
Rep by its Partner T.S.Natarajan,
No. 68, A/1, Namakkal Road,
Tiruchengodu,
Namakkal District. .. Petitioner

-vs-

The Deputy Commercial Tax Officer,
Tiruchengodu Town Assessment Circle,
Tiruchengodu. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the Respondent in TNGST 3181546 / 2004-05 dated 28.03.2006 and quash the same.

For Petitioner : Mr. R.Senniappan

For Respondent : Mrs. G.Dhana Madhri
Government Advocate (for Taxes)

O R D E R
(through video conference)

Heard Mr. R.Senniappan, Learned Counsel for the Petitioner and Mrs. G.Dhana Madhri, Learned Government Advocate (Taxes) for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice No. TNGST 3184546/2004-05 dated 28.03.2006 passed by the Respondent, which is evidently a show cause notice for which the Petitioner has been required to submit his explanation. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in Special Director -vs- Mohammed Ghulum Ghouse [(2004) 3 SCC 440], Secretary, Ministry of Defence -vs- Prabhash Chandra Miradha (AIR 2012 SC 2250) and Life Insurance Corporation of India -vs- A.Masilamani [(2013) 6 SCC 530] that a show cause notice cannot be challenged

before completion of enquiry and the proceedings cannot be interfered with in the interregnum till it reaches its logical conclusion.

3. Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for this Court to interfere at this pre-mature stage of the matter.

4. It is incumbent upon the Petitioner to submit his explanation with all supporting documents and comply with the requirements as sought in the impugned order by 30.11.2020. The Respondent shall, after affording full opportunity of hearing, duly consider the explanation of the Petitioner, deal with the each of the contentions raised and pass reasoned orders on merits and in accordance with law and communicate decision taken under written acknowledgment. In the event of any decision entailing adverse civil consequences, it would be certainly open to the Petitioner to impeach the same before the proper forum in the manner recognized by law. Though obvious, it is made clear that no opinion has been expressed by this Court on the correctness or otherwise on the merits of the controversy involved in the matter.

In the result, the Writ Petition is dismissed with the aforesaid clarifications. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

kv/maya

To

The Deputy Commercial Tax Officer,
Tiruchengodu Town Assessment Circle,
Tiruchengodu.

+1cc to Mr.R.Senniappan, Advocate SR.No.33266

+1cc to Special Government Pleader (Taxes)SR.No.33120

W.P. No. 11892 of 2006

LN(CO)
GMT(04/11/2020)