IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2020

CORAM

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

W.P. No. 15561 of 2016
and
W.M.P. No. 13528 of 2016

M/s. Cuecom Entertainment (P) Ltd.,
Rep. by its Director,
2A, 'Vinayaka',
No. 34, Bakthavatsalam Salai,
Mylapore,
Chennai - 600 004. ...Petitioner

-vs-

The Assistant Commissioner (CT)
Alwarpet Assessment Circle
46, Greenways Road,
Chennai - 600 028. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records of the Respondent in the impugned proceedings in RC No. 1740/2007/A1 for the Assessment Year 2003-04 dated 19.02.2015, quash the same as it travels beyond the scope of Section 16 of Tamil Nadu General Sales Tax Act, 1959 and beyond the powers conferred under Entry 54, List-II, Seventh Schedule and Article 246 of the Constitution of India by imposing sales tax in terms of Section 3A of the Tamil Nadu General Sales Tax Act, 1959 and direct the Respondent not to proceed with the Distraint Order dated 29.03.2016.

For Petitioner : Mr. V.S.Manoj
For Respondent : Mr. Mohammed Shaffiq
Special Government Pleader.

O R D E R
(through video conference)

Heard Mr. V.S.Manoj, Learned Counsel for the Petitioner and Mr. Mohammed Shaffiq, Learned Special Government Pleader for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the order in Rc.No.1740/2007/A1, dated 19.02.2015 passed by the Respondent determining the liability of the Petitioner for tax under Section 16 of the Tamil Nadu General Sales Tax Act, 1959 (hereinafter referred to as 'the Act' for short) for the Assessment Year 2003-04.

3. On a bare perusal of the impugned order, it is apparent that the Petitioner had submitted replies dated 15.04.2011 and 16.08.2011 to the show cause notices issued as acknowledged in its reference, but the Respondent has proceeded on the erroneous premises as if the Petitioner had neither filed any reply nor availed personal hearing. Inasmuch as the failure of the Respondent to consider the reply of the Petitioner while passing the impugned order entails adverse civil consequences to the Petitioner in violation of the principles of natural justice and the statutory requirements, it cannot be sustained and the same is quashed.

4. It is incumbent upon the Respondent, after affording full opportunity of personal hearing to the Petitioner, deal with each of the contentions raised in the aforesaid replies dated dated 15.04.2011 and 16.08.2011 sent by the Petitioner and pass reasoned orders on merits and in accordance with law, following the prescribed procedure in consonance with the principles of natural justice and communicate the decision taken to the Petitioner under written acknowledgment.

5. Accordingly, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dm

To

The Assistant Commissioner (CT)
Alwarpet Assessment Circle
46, Greenways Road,
Chennai - 600 028.

+1cc to Special Government Pleader, S.R.No.36174

W.P. No. 15561 of 2016

RLD(CO)
KKV/27/11/2020