IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.11.2020
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 27582 of 2012
and
M.P. No. 1 of 2012

M/s. F.M. Sales & Marketing,
Represented by its Proprietor,
Ramesh Kumar M.Jain,
Old No.61, Krishnappa Agraharam,
Kondithope,
Chennai - 600 079. ... Petitioner

-vs-

1. The State of Tamil Nadu,
Represented by its Secretary,
Commercial Taxes Department,
Fort St. George,
Chennai - 600 009.

2. The Joint Commissioner (CT) (RP),
Salem Division,
Salem.

3. The Assistant Commissioner (CT),
Vallalarnagar Assessment Circle,
Chennai - 600 001.
.. Respondents

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 files of the Third Respondent in TIN No. 33291162380/2010-11 dated 31.08.2012 and quash the same as being contrary to the notification issued by the Government of Tamil Nadu in G.O. Ms. No. 149 dated 12.10.2009 and that of the order passed by the Second Respondent in R.P. No. 11/2010 dated 05.06.2010.



For Petitioner : Mr. R.Senniappan
For Respondents: Mrs. G.Dhanamadhri,
Government Advocate (Taxes)

O R D E R
(through video conference)

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

2. The Writ Petition challenges the Order No. TIN: 33291162380/2010-11 dated 31.08.2012 passed by the Third Respondent, which is evidently a show cause notice for which the Petitioner has been required to submit its 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 interdicted 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 Third 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 31.12.2020. The Third 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.

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

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

vjt

To

1. The Secretary to the Government of Tamil Nadu,
   Commercial Taxes Department,
   Fort St. George,
   Chennai - 600 009.

2. The Joint Commissioner (CT) (RP),
   Salem Division,
   Salem.

3. The Assistant Commissioner (CT),
   Vallalarnagar Assessment Circle,
   Chennai - 600 001.

+1 cc to Mr.R.Senniappan Advocate sr35932
+1 cc to Special Government Pleader(Taxes) sr35579

W.P. No. 27582 of 2012

srII(co)
aa07/01/2021