IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.Nos.5031 & 5034 of 2020
and WMP.Nos.5944 & 5945 of 2020

Padmesh Cashew Company,
Represented by its Proprietor: Rajan Kalladan,
No.XII/485/1, Palloor, Pandakkal,
Naluthara P.O., Mahe-673310. .. Petitioner in both Wps

Vs.

The Commercial Tax Officer,
Mahe. .. Respondent in both Wps

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records on the file of the respondent in TIN No: 34520006579/CTO/Mahe/2019-20 Mahe, dated 10.12.2019/1076 and TIN No: 34520006579/CTO/Mahe/2019-20/1077 respectively and quash the same as illegal, invalid and unlawful.

(In both WPs)
For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.Kumaran
Additional Government Pleader
(Puducherry)

COMMON ORDER

Mr.Kumaran, learned Additional Government Pleader (Puducherry) accepts notice on behalf of the respondent.

2.By consent and since the matter turns on a very limited point, these writ petitions are disposed even at the stage of admission.

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3.The petitioner challenges notice dated 10.12.2019 calling upon it to produce various records in support of its returns of turnover filed in terms of the Puducherry Value Added Tax Act, 2007, (in short 'PVAT Act') for the periods 2015-16 and 2016-17. Objections to the pre-assessment proposals have been called for under the impugned notice as well as documentary evidences and books of accounts. The date of hearing was fixed on 26.12.2019.

4.On 24.12.2019 a reply was filed by the petitioner requesting that the proposals be dropped. This was followed by a subsequent notice dated 20.01.2020. My attention is drawn to certain unnecessary phrases utilised in the notice itself wherein, in conclusion the officer states that 'it is decided to proceed with the assessment on best of judgement basis and confirm the tax and penalty proposed in the notice dated 10.12.2019.' Having said so, he once again extends an opportunity for furnishing of the documents as called for earlier. Again on 29.01.2020, the officer puts the petitioner to notice that if the returns were not substantiated, consequences would follow. On 03.02.2020, the petitioner again replies requesting that the proceeding be dropped. Some of the details sought appear to have been annexed to replies dated 24.12.2019 and 03.02.2020.

5.The trigger for the present writ petition appears to have been the communication issued by the officer to the Regional Administrator, Mahe, dated 29.01.2020, a copy of which has been issued to the petitioner, wherein the officer states the following:

> 'Similarly, assessment proceedings under best of judgement basis have been commenced against the defaulter; and total tax and penalty due of Rs.19099164/- for the financial year 2015-16 and Rs.55478883/- for the financial year 2016-17 have been proposed. The same will be conformed and assessment orders will be passed if the dealer fails to substantiate the above tax and penalty is not due to be paid by him.'

6.Thus the petitioner apprehends that the matter may not be appreciated or approached in a fair manner by the officer.

7.I am however of the view that the notices are only unhappily worded and am not thus inclined to interfere with the proceedings at this stage. The petitioner, for its part, could also have been more responsive in terms of producing the books of accounts as sought for and in a timely fashion as this seems to have been done in full only on 11.02.2020.

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8.In the light of the discussion as above, this writ petition is closed as premature. It is made clear that the proceedings will continue with the full co-operation of the petitioner and the officer shall conclude the same in accordance with law, approaching the matter without prejudging issues, and in an open, fair and transparent manner. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

vs
To
The Commercial Tax Officer,
Mahe.

+1 CC to Mr.A.Chandrasekaran, Advocate sr 17159.

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RK(CO)
SP(06/03/2020)

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