IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE Dr. JUSTICE ANITA SUMANTH

W.P.No.8829 of 2019 and
WMP.No.9394 of 2019

M/s.Tamilnadu State Marketing Corpn Ltd.,
4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008
Represented by its Managing Director,
R.Kirlosh Kumar .. Petitioner

Vs.

1.The Assistant Commissioner of Income Tax,
Corporate Circle - 3(1),
121, Mahatma Gandhi Road,
Chennai - 600 034.

2.The Principal Commisisoner of Income Tax -3,
Room No.410, 4th Floor, Main Building,
121, Mahatma Gandhi Road,
Chennai - 600 034. .. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the Petitioner on the file of the 2nd Respondent and quash the impugned notice u/s.263 of the Act in C.No.3033(10)/PCIT-3/2018-19/PAN : AAACT2964P dated 18.03.2019 for the assessment year 2014-15 passed by the 2nd Respondent.

For Petitioner : Mr.R.Vijayaraghavan
for M/s.Subbaraya Aiyar Padmanabhan

For Respondents : Mrs.Hema Muralikrishnan,
Senior Standing Counsel

ORDER

The petitioner Tamil Nadu State Marketing Corporation Limited (TASMAC) has challenged a show cause notice issued under Section 263 of the Income Tax Act, 1961 (in short 'Act') dated 18.03.2019 issued by the Principal Commissioner of Income Tax proposing to revise the assessment computed originally for Assessment Year (in short 'AY') under Section

143(3) of the Act on 30.12.2016. The respondents had called upon the assessee to appears and show cause as to why the original order of assessment not be treated as erroneous and prejudicial to the interests of revenue and consequently revised. The respondent had expressed the view that the VAT payable would not be allowable as a deduction in computing the profits and gains of business or profession, specifically in the light of the provisions of Section 40(a)(iib) of the Act.

2.Though learned counsel for the petitioner offers some arguments on the merits of the matter, I refrain from adverting to the same, being of the view that this writ petition is premature. The impugned communication is only a notice to show cause and hence all arguments objecting to the proposals may well be advanced before the respondent for his consideration. The apprehension expressed by the petitioner appears to emanate from paragraph-5 of the impugned notice wherein the respondent states that 'In view of the above, the Assessment Order passed u/s. 143(3) of the Income Tax Act 1961 on 30.12.2016 is erroneous in so far as it is prejudicial to the interest of revenue.' thus indicating that the communication is, in fact, an order couched as a show cause notice. To allay these apprehensions, it would suffice that the second respondent is directed to address the issue raised in the SCN without any preconceived notions and pass an order, in accordance with law, after hearing the petitioner.

3.Let objections be filed by the petitioner within a period of three weeks from date of receipt of a copy of this order and, after hearing the petitioner by issue of personal hearing notice, let orders be passed within a period of four weeks from date of conclusion of personal hearing.

4.This writ petition is disposed as above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar

vs

To
1.The Assistant Commissioner of Income Tax,
Corporate Circle - 3(1),
121, Mahatma Gandhi Road,
Chennai - 600 034.

2.The Principal Commisisoner of Income Tax -3,
Room No.410, 4th Floor, Main Building,
121, Mahatma Gandhi Road,
Chennai - 600 034.

+1cc to M/s.Subbaraya Aiyar, Advocate SR.12816
+1cc to M/s.Hema Murali Krishnan, Advocate SR.12546

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SS(CO)
CB(16/03/2020)