IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.6178 of 2015
and
M.P.No.1 of 2015

1.S.Radhakrishnan
2.R.Ganesh ..Petitioners

-Vs-

1.The Commercial Tax Officer,
Commercial Tax Department,
Dharmapuri.
2.The Assistant Commissioner,
Commercial Tax Department,
Dharmapuri.
3.The District Revenue Officer,
Dharmapuri.
4.The Sub Registrar (West)
Dharmapuri.
5.Tamil Nadu Small Industries Development Corporation,
SIDCO Office Complex,
Kathipara Junction
Paulwel's Road,
Chennai-600016.
6.Chandramohan,
Proprietor
Sri Venkateswara Cone Industries,
No.E-5, SIDCO Industrial Estate,
Dharmapuri-636705. ..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorari calling for the records of the first respondent pertaining to the demand notice in the proceedings in Roc.No.A3/3491/2000 dated 03.02.2015 in respect of the property bearing Shed No.E-5, Survey Nos.428/3 and 219/2 part, A.Jettihalli Village, Sidco Industrial Estate, Dharmapuri Taluk, Dharmapuri District and to quash the same.

For Petitioners : Mr.P.Valliappan
For Respondent-1 & 2: Mr.R.Swarnavel, GA
For Respondent-3 : Mr.Prathap Singh, GA
For Respondent-4 : Mr.Pappaiya, SGP
For Respondent-5 : Mr.Jaseem Mohammed

O R D E R

Today, the matter is listed through Video Conference. By consent of both the parties, the Writ Petition is taken up for final disposal.

2. The notice dated 03.02.2015 proposing to initiate retrospective proceedings against the petitioner's property for default of tax dues availed under the Interest Free Sales Tax is put under challenge in the present Writ Petition.

3. Though the impugned proceedings is termed as a 'Notice', the vigour of the notice is to the effect that, the respondents have come to the conclusion that the petitioner has defaulted tax dues availed under the Interest Free Sales Tax. Reading of the notice reveals that it does not call for explanation of the petitioner nor the case of the petitioner that show cause notice was issued pursuant to the impugned proceedings. As such, the proceedings dated 03.02.2015 cannot be construed as a 'Notice'.

4. In the absence of show cause notice, the impugned notice would amount to violation of the principles of natural justice and hence this Court would be empowered to invoke its extraordinary powers under Article 226 of the Constitution of India. In my view, if the petitioner is granted an opportunity to file his objection to the proceedings dated 03.02.2015 and thereafter, if the respondents are granted liberty to consider his objection, the ends of justice could be secured.

5. In the light of the above observations, impugned notice dated 03.02.2015 shall be treated as a show cause notice and consequently, the petitioner is called upon to render his objection, if any, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the objections, the concerned respondent shall consider the same on its own merits and pass appropriate orders, after giving due opportunity of personal hearing to the petitioner through video conferencing, if necessary, atleast within a period of eight weeks therefrom.

6.The Writ Petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//
Sub Assistant Registrar

DP

To

1.The Commercial Tax Officer,
Commercial Tax Department,
Dharmapuri.

2.The Assistant Commissioner,
Commercial Tax Department,
Dharmapuri.

3.The District Revenue Officer,
Dharmapuri.

4.The Sub Registrar (West)
Dharmapuri.

5.Tamil Nadu Small Industries Development Corporation,
SIDCO Office Complex,
Kathipara Junction
Paulwel's Road,
Chennai-600016.

+1cc to Mr.P.Valliappan, Advocate, S.R.No.25467

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and
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PA(CO)
CB(21/08/2020)