IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.34554 of 2014
and
M.P.No.2 of 2014

M/s.Sterling Biotech Ltd.,
Rep. by its Factory Manager C.Manokaran,
Door No.4, Finger Post,
Ooty - 643001. ...Petitioner

Vs.

1. The State of Tamil Nadu,
   Rep. by its Secretary,
   Commercial Taxes Department,
   Fort St. George, Chennai.

2. The Commercial Tax Officer (FAC),
   Udhagai (North) Circle,
   Udhagai. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in his impugned proceedings in TIN No: 33512521811/2014-15 dated 01.12.2014, quash the same and further direct the 2nd respondent not to apply Sec.2(1) of the Tamil Nadu Value Added Tax (Fifth Amendment) Act, 2013 to the petitioner herein in as much as the petitioner is a manufacturer of goods in the State of Tamil Nadu.

For Petitioner : Mr.S.Rajasekar

For Respondents: Mr.A.N.R.Jayaprathap
Special Government Pleader

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O R D E R

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

2. The order reversing ITC for the assessment year 2014-15 is put under challenge in the present writ petition.

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3. The writ petition deserves to be allowed on the short point that the impugned order dated 01.12.2014 is a non-speaking order. Though the respondent had stated that the petitioner's reply dated 14.10.2014 and 18.11.2014 to the notices dated 01.10.2014 and 24.10.2014 were not considered, no reasons have been assigned as to how the objection raised by the petitioner has been rejected. Since the order reversing the ITC is a non-speaking order, the same cannot be sustained in the eye of law.

4. In the light of the above observation, the impugned order dated 01.12.2014 is quashed and the matter is remanded back to the 2nd respondent herein for fresh consideration. The petitioner is granted liberty to raise fresh objections to the show cause notice dated 01.10.2014 and on receipt of the same, the 2nd respondent herein shall consider it on its own merits and take further course of proceedings, after extending due opportunity of personal hearing to the petitioner, if necessary through video conferencing. The petitioner shall file the objections atleast within a period of 15 days from the date of receipt of a copy of this order and thereafter, the 2nd respondent shall endeavour to consider the objections, as expeditiously as possible.

5. The Writ Petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary,
   Commercial Taxes Department,
   Fort St. George, Chennai.
2. The Commercial Tax Officer (FAC),
   Udhagai (North) Circle,
   Udhagai.

+1 cc to The Government Pleader, Sr.No. 31194

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