IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 25951 of 2014
and
M.P. No. 1 of 2014

M/s. Turbo Energy Limited
Represented by its Executive Director
Adyar, Chennai - 600 020. ... Petitioner

-vs-

The Assistant Commissioner (CT)
Adyar I Assessment Circle
Chennai - 600 020. ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Respondent in the impugned notice TNGST/0860206/2006-07/Para 51A dated 26.08.2014, quash the same as it is arbitrary and completely contrary to the findings in the original assessment order.

For Petitioner : Ms. Radhika Chandra Sekhar

For Respondent : Mrs. G.Dhanamadhiri
Government Advocate (Taxes)

O R D E R
(through video conference)

Heard Ms. Radhika Chandra Sekhar, Learned Counsel for the Petitioner and Mrs. G.Dhanamadhiri, Learned Government Advocate (Taxes) appearing for the Respondent, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Notice No. TNGST/0860206/2006-07/Para 41A dated 26.08.2014 issued by the Respondent proposing to revise the assessment of the turnover of Rs. 18,11,80,803/- for the year 2006-2007 under the Tamil

Nadu General Sales Tax Act, 1959, for the reason that sales turnover had been exempted without production of copies of Green Card and purchase order.

3. Learned Counsel for the Petitioner submits that the said documents had been produced at the time of filing the application for exemption which has been reflected in the final order of the assessment and that in furtherance to the impugned notice, the Petitioner has also sent a reply dated 29.09.2014 with another set of copies of the said documents, the receipt of which has been acknowledged by the Respondent and in such circumstances, the Respondent has to be restrained from proceeding further.

4. 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 interfered with in the interregnum till it reaches its logical conclusion. Having regard to the aforesaid legal position, it is incumbent upon the Respondent to duly consider the aforesaid explanation with supporting documents submitted by the Petitioner before coming to any ultimate conclusion in the matter and there is no necessity for this Court to interfere at this pre-mature stage of the proceedings.

5. If the Respondent is of the opinion that the Petitioner has not satisfied the prescribed requirements or eligibility criteria for the benefit of exemption, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 10 working days that may be granted for that purpose. In the event of the Respondent being of the opinion that the Petitioner has not satisfied the same even thereafter, an enquiry shall be conducted affording an opportunity of personal hearing to the Petitioner to explain its position regarding such compliance. After carrying out the aforesaid exercise, the Respondent shall pass reasoned orders dealing with the each of the contentions raised by the Petitioner on merits and in accordance with law and communicate decision taken to him under written acknowledgment. In the event of any decision entailing adverse civil consequences, the Petitioner is not precluded from pursuing his legal remedies for necessary relief before 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.

6. In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

Maya/kv

To

The Assistant Commissioner (CT)
Adyar I Assessment Circle
Chennai - 600 020.

W.P. No. 25951 of 2014

(CO)
GMY(04/11/2020)