BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.09.2020
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.10228 & 10319 of 2020 and
W.M.P.(MD)Nos.9117 & 9185 of 2020

W.P.(MD)No.10228 of 2020

M/s.Sahayamatha Salt Refinery Pvt Ltd.,
Rep. By its Director Michael Motha,
13 A/1, Pillayar Koil Street,
Meenakshipuram West,
Tuticorin - 628 002. ... Petitioner

Vs.

The Commercial Tax Officer-II,
Tuticorin II Assessment Circle,
Commercial Taxes Buildings,
Tuticorin. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in TNGST 5841195/2003-04 dated 31.01.2020 and quash the same as illegal and contrary to Section 3-A(2)(c) of Tamil Nadu General Sales Tax Act 1956 and direct the respondent to pass an assessment order afresh by considering the reply dated 26.03.2013 after affording an opportunity of personal hearing to the petitioner.

W.P.(MD)No.10319 of 2020

M/s.Sahayamatha Salt Refinery Pvt Ltd.,
Rep. By its Director Michael Motha,
13 A/1, Pillayar Koil Street,
Meenakshipuram West,
Tuticorin - 628 002. ... Petitioner

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1956 and direct the respondent to pass an assessment order afresh by considering the reply dated 26.03.2013 after affording an opportunity of personal hearing to the petitioner.

(in both W.Ps.)
For Petitioner : Mr.S.Karunakar
For Respondent : Ms.J.Padmavathi Devi, Special Government Pleader.

COMMON ORDER

Heard the learned counsel on either side.

2. The petitioner was a registered dealer both under the TNGST Act and CST Act with the respondent. The subject matter pertains to the assessment years 2003-04 and 2004-05. The petitioner received a revision of assessment notice in the year 2007. The petitioner is said to have submitted a reply. But then, nothing happened and after 11 years, on 27.09.2018, one more pre-revision notice was issued. The petitioner submitted their representation seeking adjournment. The petitioner stated that the earlier records are not available. In this background, the impugned orders came to be passed.

3. When the writ petitions were filed before me, I made it clear that the petitioner will have to be put on certain terms. The petitioner's counsel states that the petitioner would remit a sum of Rs.10,00,000/-(Rupees Ten Lakhs only) without prejudice to their contentions. It is now stated that this condition has since been complied with.

4. Though the respondent has filed a detailed counter affidavit and the learned Special Government Pleader also reiterated all the objections set out therein, I am of the view that this is a case in which one more opportunity deserves to be granted to the petitioner. It is not in dispute that the first pre-revision notice was issued only in the year 2007 and that there was a gap of 11 long years before one more notice came to be issued.

5. When the petitioner received a second notice in the year 2018, it appears that they could not readily trace out old records. The petitioner's counsel states that the petitioner has now retrieved the old records. It appears that the petitioner had transactions primarily with M/s.Hindustan Lever Ltd. Therefore, it is not possible to fabricate the documents. All that the petitioner wants is that one more opportunity may be given to him. I put the petitioner on terms and the condition has been complied with.

6. Therefore, in the interest of justice, the orders impugned in the writ petitions stand quashed. The matter is remitted to the file of the respondent. The respondent will grant personal hearing to the petitioner on 30.09.2020. The petitioner will place all the materials on the said date. The petitioner will not adopt any dragging on tactics. It is open to the respondent to pass orders in accordance with law. As the amount of Rs.10,00,000/- paid by the petitioner pursuant to the order of this Court, its appropriation will abide by the final order that will be passed by the respondent.

7. These writ petitions stand allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

The Commercial Tax Officer-II,
Tuticorin II Assessment Circle,
Commercial Taxes Buildings, Tuticorin.

+1 CC to Mr.S. KARUNAKAR, Advocate (SR-16801[F] dated 15/09/2020)

+1 CC to SGP (SR-16973[F] dated 15/09/2020)

W.P.(MD)Nos.10228 & 10319 of 2020
14.09.2020

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