IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2021

CORAM

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.5349 of 2007
and
M.P.No. 1 of 2007

M/s.SBF Enterprises
Manufacturing of Aluminium Grills and Diffusers,
Rep.by its Proprietrix Asma Basha
No.2, Bishop David Nagar,
Vellore. ...Petitioner

Vs

1. The State of Tamil Nadu,
   Rep.by its Secretary to Government,
   Commercial Taxes & Religious Endowment,
   Fort.St.George, Chennai - 9.

2. The Commercial Tax Officer (FAC),
   Office of the Commercial Tax Officer,
   Vellore (South),
   Vellore. ...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Prohibition, prohibiting the second respondent from proceeding any further in pursuance of the notice dated 27.10.2006 in TNGST No.4222667/04-05 (Entry Tax) as the same is without jurisdiction.

For Petitioner : Mr.N.Muralikumaran
for M/s.McGan Law Firm

For Respondents : Mr.V.Veluchamy
Government Advocate

ORDER

The writ on hand is filed challenging the Notice dated 27.10.2006.

2. The Notice impugned states that the petitioner had imported Aluminium Extracted profiles from other States for Rs.31,01,692/-, inclusive of freight charges. However, monthly

returns had not filed and tax was also not paid. Thus, the respondents issued a notice calling upon the petitioners to file their objections, if any on the proposals within 15 days. The petitioner instead of filing objections, has chosen to file the present writ petition, raising certain grounds. The grounds raised on merits cannot be adjudicated in a writ proceedings, at this stage, as the said adjudications are to be done based on original documents and evidences, to be submitted before the Competent Authorities.

3. No writ against a show-cause notice needs to be entertained in a routine manner. A writ against a show-cause notice may be entertained only if such notice is issued by an incompetent Authorities, having no jurisdiction directly in violation of the provisions of the Act or an allegations of malafides. Even in case of raising an allegation of malafides, the Authority against whom such an allegation is raised, must be impleaded as a party respondent in his personal capacity. In all other circumstances, High Court need not adjudicate the disputed facts on merits.

4. This being the principles to be followed, the petitioner is at liberty to file its objections to the respondents along with the documents and evidences, if any, within a period of four weeks from the date of receipt of a copy of this order and on receipt of objections, if any from the petitioner, the Authorities Competent shall pass final orders on merits and in accordance with law and by following the procedures contemplated.

5. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Pns/Kbs

To
1. The Secretary to Government,
State of Tamil Nadu,
Commercial Taxes & Religious Endowment,
Fort.St.George, Chennai - 9.

2. The Commercial Tax Officer (FAC),
   Office of the Commercial Tax Officer,
   Vellore (South),
   Vellore.

+1cc to M/s.McGan Law Firm, Advocate, S.R.No.41979
+1cc to the Government Pleader, S.R.No.42528

RSV(CO)
CT(17/09/2021)