IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2021

CORAM

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

W.P.No.20105 of 2004
and W.P.M.P.No.24190 of 2004

M/s. Sri Jayajothi & Co. Ltd.,
Proprietor: Sree Shanmugar Mills,
Represented by its Director Mrs. Krishnaveni Kannan,
Kanyakumari Main road,
Muppandal,
Kanyakumari District. ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Nagercoil (Rural),
Nagercoil. ...Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for and quash the impugned notice of the respondent passed in A4/1915/2004, dated 06.07.2004.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.V.Veluchamy
Govt. Advocate

ORDER

The Notice issued by the respondent in proceedings dated 06.07.2004, directing the petitioner to produce the import documents within seven days on receipt of the notice, is under challenge in the present writ petition.

2. The impugned show-cause notice issued by the respondent can never be construed as a cause, in view of the fact that, even there is no proposed decision as stated in the impugned notice. The Authorities have asked the petitioner to submit the import documents enabling them to verify the documents and take a decision thereafter. Thus, the petitioner has not established any cause of action for the purpose of entertaining the Writ Petition.

3. Even in such cases where show-cause notice has been issued with some allegations, then also the petitioner is bound to respond to the Competent Authority by submitting their objections. At the outset, no Writ against a show-cause notice is entertainable in a routine manner. However, a Writ against a show-cause notice may be entertained, if the notice is issued by an Incompetent Authority having no jurisdiction directly within the provisions of the Act or an allegation of malafides are raised and in such case, the Authority against whom such an allegation is raised must be impleaded as party respondent in his personal capacity. In all other circumstances, the noticee has to respond to the Authority Competent, who issued the notice for effective adjudication of the issues in the manner known to law.

4. This being the principles to be followed, the petitioner is bound to submit the documents as sought for in the impugned notice, dated 06.07.2004 before the respondent, within a period of three weeks from the date of receipt of a copy of this order and on receipt of such documents, the respondent shall consider the issues involved and take a decision and pass appropriate orders in the manner known to law.

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

The Deputy Commercial Tax Officer,
Nagercoil (Rural),
Nagercoil.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.42858
+1cc to the Special Government Pleader (Taxes), S.R.No.43133

W.P.No.20105 of 2004

PL(CO)
CT(20/09/2021)