IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

WRIT APPEAL NO.2479 OF 2021
AND
C.M.P.NO.16003 OF 2021

M/s.Clean Switch India Pvt. Ltd.,
Rep. by Director
K.Sathyan Kasturi
Plot No.102/36, 1st Floor,
Defence Officers Colony,
Ekkattuthangal, Chennai - 600 032. .. Appellant

-vs-

The State Tax Officer,
Nandambakkam Assessment Circle,
17, Loganathan Nagar, 2nd Street,
Choolaimedu,
Chennai - 600 094. .. Respondent

Appeal under Clause 15 of Letters Patent against the order dated 24.03.2021 in W.P.No.7658 of 2021.

Prayer in W.P.No.7658 of 2021:-

Writ of Certiorari Calling for the records of the Respondent in order dated 15.12.2020 in TN 33970907769/ 2015-16 and quash the same.

For Appellant : Mr.Adithya Reddy

For Respondents : Mr. M.Venkateswaran
Government Counsel

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal by the writ petitioner is directed against the order dated 24.03.2021 in W.P.No.7658 of 2021.

2.The appellant filed a writ petition challenging the assessment order dated15.12.2020 under the provisions of the Tamil Nadu Valud Added Tax Act, 2006 [TNVAT Act] for the assessment year 2015-16. The appellant had filed an earlier writ petition in W.P.No.12271 of 2020 alleging that the assessment order dated 24.01.2020 was passed in gross violation of principles of natural justice. The Court accepted the said submission and disposed of the writ petition by order dated 08.10.2020 directing the assessment order dated 24.01.2020 be treated as a show cause notice and the appellant was given an opportunity to file a reply to the same and the matter be proceeded afresh.

3.It is not in dispute that pursuant to the said direction, a revision notice dated 29.10.2020 was issued to the appellant and the appellant has submitted their objections not once but twice. Ultimately, the final revision notice was issued on 27.11.2020 and the appellant by representation dated 28.11.2020 had sought for an opportunity of personal hearing. Thereafter, reply dated 03.12.2020 was filed to the final notice dated 27.11.2020. Subsequently, another representation was given on 04.12.2020 to consider their reply and provide personal hearing. It is thereafter the assessment order has been passed. The appellant contended that adequate opportunity has not been extended to the appellant and that fresh allegations have been made against the appellant which are very serious in nature and therefore, would contend that the assessment order is in violation of principles of natural justice.

4.The learned Writ Court considered the factual position and more particularly, that opportunity of personal hearing was granted but however, the Director of the appellant Company did not appear and had sent three communications to the Assessing Officer stating that the Directors were pre-occupied and could not appear, etc. Considering all these facts, the learned Writ Court, in our opinion, rightly held that sufficient opportunity has been granted to the appellant. Accordingly, the writ petition was dismissed holding that assessment order does not warrant interference under Article 226 of the Constitution of India. There is no error in the findings rendered by the learned Writ Court for us to interfere. Accordingly, the writ appeal fails and is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cse

To

The State Tax Officer,
Nandambakkam Assessment Circle,
17, Loganathan Nagar, 2nd Street,
Choolaimedu,
Chennai - 600 094.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.52377
+1cc to the Special Government Pleader(Taxes), S.R.No.52469

W.A.No.2479 of 2021

RK(CO)
PM/25/10/2021