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.2558 of 2021
and C.M.P.No.16638 of 2021

Shapporji Pallonji & Company Pvt. Ltd.,
Represented by its General Manager
(Accounts & Administration),
SP Infocity, Module 4-A, 2nd Floor, A Block
40, MGR Salai, Kandachavadi,
Perungudi, Chennai – 600 096. ...Appellant

-vs-

1.The State Tax Officer (Intelligence) FAC,
Collection and Arrear,
O/o. The Deputy Commissioner (ST), (Intelligence),
Commercial Taxes Building,
Integrated Master Plan Collectorate Complex,
Villupuram – 605002.

2.The Deputy Commercial Tax Officer,
Ranipet IN Checkpost,
Serkadu, Ranipet. ...Respondents

Appeal under Clause 15 of Letters Patent against the order dated 09.09.2021 in W.P.No.19124 of 2021 and set aside the same.

W.P.No.19124 of 2021:
To issue a Writ of Certiorari or any other appropriate Writ, order or direction under Article 226 of the Constitution of India, calling for the records on the file of the 1st Respondent herein in his notice GDN No. 49/2012-2013/RC.A7/1938/2019 dated 31.03.2021 and quash the same.

For Appellant : Mr.R.Kumar

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 09.09.2021 in W.P.No.19124 of 2021.

2.The petitioner had filed the said writ petition challenging the notice issued by the first respondent. By the said notice, the appellant was advised to pay the compounding fee of Rs.8,66,074/- within fifteen days from the date of receipt of the notice, failing which the first respondent informed the appellant that action will be taken under the provisions of the Revenue Recovery Act for recovery of the said account. The appellant filed the writ petition contending that the said demand by notice dated 31.03.2021 is stated to be in pursuance to the proceedings of the Deputy Commercial Tax Officer, Ranipet [IN] Checkpost in G.D.No.49/2012-13 dated 20.09.2016 and the said proceedings was never communicated to the appellant. The learned Writ Court had dismissed the writ petition primarily on the ground that the order impugned was only a show cause notice. Challenging the correctness of the order passed in the writ petition, the appellant is before us.

3.We have heard Mr.R.Kumar, learned counsel appearing for the appellant and Mr.M.Venkateswaran, learned Government Counsel appearing for the respondents and also placed the original files.

4.The file in Page No.19 reveals that the order dated 20.09.2021 passed by the second respondent was sent by registered post with acknowledgment but has returned with the postal endorsement 'left'. The said communication has been addressed to the appellant with the address “No.36, Second Floor, CID Nagar, Chennai-600035”.

5.The learned counsel for the appellant submitted that the said address is the old address and the change of address was duly intimated to the respondent by communication dated 05.06.2012 and the same was taken note of by the respondent and the adjudication final notice dated 27.07.2015 was sent to the new address at Kandanchavadi which was received by the appellant and they have also sent their reply dated 07.08.2015. Thereafter, another notice was sent to the very same Kandanchavadi address dated 26.08.2015 which was received by the appellant and the appellant has sent a reply on 05.10.2015. However, the proceedings of the second respondent dated 20.09.2016 had been sent to the old address as could be seen from the original file. Therefore, the appellant cannot be blamed for the communication which was sent to the old address.

6.Therefore, we are of the view that the appellant should be furnished with a certified copy of the proceedings of the second respondent dated 20.09.2016 and they should be granted reasonable time to file a revision petition before the concerned Joint Commissioner. It is only thereafter any proceedings can be taken by the first respondent.

7.For the above reasons, the writ appeal is allowed, the order passed in the writ petition is set aside and consequently, the demand dated 31.03.2021 is set aside with the direction to the second respondent to furnish the copy of the proceedings dated 20.09.2016. In order to avoid the delay, we direct the appellant or their authorized representative to go over the office of the second respondent within a week from the date of receipt of a copy of this judgment and a certified copy of the said proceedings dated 20.09.2016 shall be handed over to the appellant or their authorized representative after obtaining acknowledgement. From the date of receipt of the certified copy of the said proceedings, the appellant is permitted to file a revision petition before the Joint Commissioner having jurisdiction over the same within fifteen days therefrom. If such revision petition is filed, the Joint Commissioner shall entertain the revision petition without rejecting the same on the ground of limitation and afford an opportunity of personal hearing to the authorized representative of the appellant and pass orders on merits and in accordance with law as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

cse
To
1.The State Tax Officer (Intelligence) FAC,
Collection and Arrear,
O/o. The Deputy Commissioner (ST), (Intelligence),
Commercial Taxes Building,
Integrated Master Plan Collectorate Complex,
Villupuram – 605002.

2.The Deputy Commercial Tax Officer,
Ranipet IN Checkpost,
Serkadu, Ranipet.

+1 CC to Mr.R.Kumar, Advocate sr 52119
+1 CC to The Special Government Pleader(T) sr 52471.

W.A.No.2558 of 2021

RK(CO)
SP(18/10/2021)