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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.3803 of 2022
and
W.M.P.Nos.3934 & 3936 of 2022

Tvl.Anandam Agro Products Private Limited,
Represented by its Proprietor E.Madhavan
Jagadap Village, Kaveripattinam.
... Petitioner

Vs.

The State Tax Officer (ST)
Krishnagiri Assessment Circle – 1,
Krishnagiri. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in CST-No.888584/2007-2008 dated 16.07.2021 and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mr.Richardson Wilson
Additional Government Pleader

O R D E R

The prayer sought for herein is for a writ of certiorari calling for the records on the file of the respondent in its impugned proceedings made in CST-No.888584/2007-2008 dated 16.07.2021 and quash the same.

2. For the assessment year 2007-2008, a revisional assessment order has been passed by the respondent on 16.07.2021, the same is under challenge in this writ petition.

3. Mr.S.Rajasekar, learned counsel appearing for the petitioner would submit that, in fact, notice was issued on 07.03.2012 stating certain discrepancies and seek for reply to the said notice.

4. In response to the said notice, the petitioner had given

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a detailed reply on 07.08.2012 and the same having been received, a proper acknowledgment also had been given by the Assessing Authority and the copy of the acknowledgment also has been filed in the typed set of documents.

5. However, the learned counsel appearing for the petitioner pointed out that, the respondent in the impugned order of revised assessment order dated 16.07.2021 has stated that, notice was issued to the dealer calling for their objection if any against the proposal vide second reference cited i.e., the notice dated 07.03.2012 and has further stated that, having received the notice, the dealer has not filed any objection or documentary evidences for such discrepancies, therefore, he proceeded to determine the said proposal as confirmed.

6. Pointing out this, the learned counsel would contend that, despite the reply having been given, which was received and acknowledged by the respondent, they have stated in the impugned assessment order as if that the petitioner has not filed any reply.

7. Since there has been a long delay between the show cause notice and the assessment order i.e., about 9 years, they might have missed the reply filed by the petitioner, therefore, on that ground itself, the impugned order can be set aside and remanded the matter to the respondent for reconsideration, he contended.

8. Heard Mr.Richardson Wilson, learned Additional Government Pleader appearing for the respondent, who fairly submitted that, if the petitioner has given reply on 07.08.2012, for which, an acknowledgment given on the said date by the Assistant Commercial Tax Officer, Krishnagiri and the same also filed before this Court in the typed set of documents, on that ground, if this Court decides to set aside the order impugned, the matter can be remitted back to the respondent for reconsideration in accordance with law.

9. Having considered the said submissions made by the learned counsel appearing for both sides and after having considered the aforestated factual matrix, where, though reply had been filed by the petitioner dated 07.08.2012, for which, acknowledgment also have been given by the respondent, the same having not been taken into account in the impugned order, the respondent has stated that, the dealer has not filed their objection or documentary evidence to the show cause notice.

10. In view of the above, this Court feels that, the impugned order cannot sustain in the legal scrutiny, therefore,

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it can very well be interfered with. In the result, the following orders to be passed in this writ petition:

That the impugned order is set aside and the matter is remitted back to the respondent for reconsideration. While reconsidering the same, the reply given by the petitioner dated 07.08.2012 shall be considered and if the copy of the said reply is not available or further input or records is required to be obtained by the petitioner, an opportunity also shall be given to the petitioner to appear for a personal hearing and on the date to be mentioned in this regard by the Revenue it shall be utilised by the petitioner without fail and after considering the input to be supplied in this regard by the petitioner apart from the reply dated 07.08.2012, the respondent shall proceed to finalise the assessment and pass orders in accordance with law at the earliest.

11. With this direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

Sgl

To

The State Tax Officer (ST)
Krishnagiri Assessment Circle - 1,
Krishnagiri.

+1cc to M/s.R.Hemalatha, Advocate, S.R.No.12548
+1cc to the Special Government Pleader(Taxes), S.R.No.12839

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SJ(CO)
SB(16/03/2022)

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