IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No. 26089 of 2022 and
WMP.No.25159 of 2022

Tvl. Sengottaiya Sago Factory
Rep. by its Sole Proprietor Mr. S.Periyasamy
41/1, Valkandu Sathasivapuram,
Post Attur-636 121 ...Petitioner

Vs.

The State Tax Officer
Attur (Rural) Assessment Circle
Attur 636102 ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus calling for the records leading to the issuance of respondents order in TIN 33473260391/ 2012- 13 dated 5.09.2022 quash the same and direct the respondent herein to accept the tax paid certificate filed by the petitioner and consequently revise the assessment order.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.V.Prasanth Kiran
Government Advocate

ORDER

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.V.Prasanth Kiran, learned Government Advocate for the respondent.

2. The petitioner claims to be a registered dealer engaged in the business of manufacturing and sale of sago products. For the period 2012-13, the petitioner filed returns of turnover seeking concessional rate of tax in regard to the turnover from sales of sago.

3. Pre-assessment notices were issued seeking to deny the benefit of concessional rate of 5% since, according to the Assessing Officer, the assessee should have produced a certificate establishing its eligibility for such concessional rate. The second issue related to liability to purchase tax on the purchase of empty gunny and jute, coconut oil and roller sheets.

4. According to the learned counsel for the petitioner, several attempts have been made to obtain the certificate from the Salem Starch and Sago Manufacturers' Service Industrial Co-operative Society Limited (in short 'Sago Serve'). However, since there had been a delay on the part of the society furnishing the certificate, the same could not be produced before the authority in time.

5. Admittedly, the petitioner has not appeared before the Assessing Authority either expressing its difficulty or seeking time for the production of the certificate and thus an order of assessment had come to be passed on 14.11.2019 rejecting the request for concessional rate of tax and bringing to tax the entirety of the turnover of Rs.4,34,40,982/- at 14.5%.

6. The reason for non-appearance before the Assessing Authority is stated to be certain family and health issues that the sole proprietor was facing at that point in time, as per para 7 of the affidavit filed.

7. No counter is filed in the matter since the writ petition is of the year 2022 but no serious objection is raised in regard to the explanation for non-appearance that has been set out above. That said, assessment order dated 14.11.2019, cannot be faulted in the absence of any participation or cooperation extended by the petitioner.

8. The petitioner filed an application for rectification under Section 84 of the Act. The application has come to be rejected by way of impugned order dated 05.09.2022, wherein the Authority states that no certificate was produced at the time of assessment and hence, there is no error apparent in the assessment already made. This view also merits acceptance, since the petitioner has, admittedly, produced the certificate only along with the

Section 84 application and not earlier.

9. Having said so and in the interests of substantial justice, I am of the considered view that the certificate that has now been produced by the petitioner must be taken note of by the respondent, on merits. This is for the reason on that the certificate was issued by Sago Serve only on 22.03.2021, post framing of assessment and the petitioner has approached the authority thereafter with the Section 84 application.

10. Thus, the Section 84 application stands restored to the file of the assessing authority to be heard on merits and disposed in accordance with law. This order shall not be treated as a precedent since it is passed solely on the strength of the narration as above.

11. The petitioner will appear before the respondent on Thursday, the 20th of October, 2022 without awaiting any further notice, to be heard and orders passed on the Section 84 application both in regard to the claim of concessional rate of tax qua sago as well as issue of purchase tax, within a period of four weeks thereafter i.e. on or before 21.11.2022. It is made clear that if the petitioner does not appear on the above date, it loses the benefit under this order and the impugned order dated 05.09.2022 shall stand revived forthwith.

12. This writ petition is disposed in the above terms. Connected miscellaneous petition is closed. No costs.

10.10.2022

Index : Yes/No
Speaking Order/Non speaking Order
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To

The State Tax Officer
Attur (Rural) Assessment Circle
Attur 636102

DR.ANITA SUMANTH,J.
Ska

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