IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.30652 of 2022
and WMP Nos.30093 and 30094 of 2022

Tvl.PPG Asian Paints Pvt. Ltd.,
rep. by its Authorized Signatory,
No.1/103, P.H.Road,Madhuravoyal,
Vanagaram, Chennai – 600 095.

Now at
4th Floor – Prince Towers,
No.25/26, College Road,
Nungambakkam, Chennai – 600 034.

... Petitioner

Vs

The Assistant Commissioner (ST),
Vanagaram Assessment Circle,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram,
Poonamallee, Chennai – 600 123. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order of re-assessment in CST/766390/2015-16 dated 07.09.2022 from the files of the respondent herein, quash the same and direct the respondent herein to pass revised order of assessment on the basis of the Circular issued by the Commissioner of Commercial Taxes in Acts Cell-1/12975/2011 dated 28.02.2011.

For Petitioner : Mrs.Aparna Nandakumar
For Respondent : Mr.V.Prashanth Kiran
Government Advocate

O R D E R

Read this order in conjunction with order dated 18.11.2022 that reads as follows:

Mr.V.Prashanth Kiran, learned Government Advocate accepts notice for the respondent and seeks sometime to obtain instructions and file a counter.

2. The challenge is to an order of assessment passed under the provisions of the Central Sales Tax Act, 1956, wherein the petitioner has been denied exemption in respect of a large part of the turnover on the ground that C-Forms and F- Forms were not furnished.

3. Though several points have been argued, what appeals to the Court is the notice issued is dated 05.10.2020, in response to which, the petitioner states that the reply was filed in January, 2021 and Forms in part were submitted to the authority. The impugned order has come to be passed 1 year and 9 months after the issuance of last notice.

4. In such an event, it was incumbent upon the assessing officer to have called upon the petitioner for a hearing proximate to the finalisation of assessment.

5. In this case, according to the petitioner, Forms had also been obtained in the interim, but the petitioner had been unable to place the same before the Officer, since there was no occasion for it to do so.

6. In support of the last submission, the petitioner has, in fact, approached the assessing authority by way of application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006 dated 18.10.2022, filed on 27.10.2022 referring to the reminder of the Forms.

7. List on 24.11.2022 at the end of admission list. Counter by then with an advance copy served upon the petitioner.

2. Today, learned Government Advocate confirms that there has been no hearing between January, 2021 and the passing of the impugned order, which is dated 07.09.2022.

3. In light of the same, there is a direction to the Assessing Authority to dispose the rectification application that has been filed on 18.10.2022, after hearing the petitioner and considering the Forms, if any filed by them, within a period of twelve (12) weeks from date of receipt of a copy of this order. Till then or till the disposal of the rectification application, whichever is earlier,

Dr.ANITA SUMANTH, J.

there shall be no coercive proceedings initiated as against the petitioner pursuant to the demand rasied under impugned order dated 07.09.2022.

4. This Writ Petition is disposed as above. No costs. Connected Miscellaneous Petitions are closed.

Sl **24.11.2022**

Index : Yes / No
Speaking Order
Note: Registry is directed to issue this order on or before 28.11.2022.

To

The Assistant Commissioner (ST),
Vanagaram Assessment Circle,
No.4/109, Chennai Bangalore Highway,
Varadharajapuram,
Poonamallee, Chennai – 600 123.

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