IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.03.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.8333 & 8335 of 2023
and WMP Nos. 8531, 8532 & 8534 of 2023

Tvl. SCM Textile Processing Mills (A unit of SCM Garments Pvt. Ltd.)
Represented by its Director,
Mr.T.Loganathan,
Regd. Office:57, VOC Nagar [South]
Valayankadu
Tiruppur – 641 603. ... Petitioner in both W.P.'s

Vs

The State Tax Officer (FAC)
Tiruppur (South) Assessment Circle
Tiruppur – 641 003 ... Respondent in both W.P.'s

PRAYER in W.P.No.8333 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records leading to the issuance of intimation bearing reference no.261/2020/A4 TNGST No.2320342/2002-03 dated 31.01.2023 and the revenue recovery notice bearing reference TNGST: 2320342/2002-03 & 2003-04 dated 20.01.2023, issued by the Respondent herein.

PRAYER in W.P.No.8335 of 2023: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records leading to the issuance of intimation bearing reference no.261/2020/A4 TNGST No.2320342/2003-04 dated 31.01.2023 and the revenue recovery notice bearing reference TNGST: 2320342/2002-03 & 2003-04 dated 20.01.2023, issued by the Respondent herein.

In both W.P.'s
For Petitioner : Mr.Suhrith Parthasarathy
for Ms.Sri Harini S P

For Respondent : Mrs.K.Vasanthamala
Government Advocate

COMMON ORDER

Mrs.K.Vasanthamala, learned Government Advocate accepts notice for the respondent and is armed with requisite instructions to dispose the matter finally, even at the stage of admission.

2. The challenge is to intimation dated 31.01.2023 passed under the provisions of the Tamil Nadu General Sales Tax Act, 1959 (in short 'Act'). The petitioner is an assessee on the file of the respondent State Tax Officer, Tiruppur South assessment circle.

3. Proceedings were initiated for assessment for the period 2004 - 05 by issuance of notice dated 31.03.2006. That notice came to be challenged in W.P.No.14532 of 2006 and by order dated 17.07.2017, the Writ Petition was disposed giving the petitioner 30 days time to file a response to the show cause notice. The petitioner was granted liberty to raise all pleas in regard to the issues raised in the show cause notice.

4. A specific query was raised as to whether the petitioner had complied with the order of this Court. The affidavit filed in support of the Writ Petitions is silent on this aspect and there is no direct reply forthcoming from the petitioner. The compilation accompanying the Writ Petition also does not contain a copy of any reply filed.

5. That apart, notice dated 03.03.2020 issued by the respondent also makes it clear that no reply has been received from the petitioner as directed by this Court on 17.07.2017.

6. The petitioner was granted 15 days time from date of receipt of notice to file a reply, to which also, the petitioner has not bothered to respond, though it is admitted that the petitioner has, indeed, received the notice. Hence orders of assessment dated 27.07.2020 for the assessment years 2002-03 and 2003-04 have come to be passed.

7. The petitioner has thereafter chosen to approach the assessing officer by way of rectification petitions dated 27.08.2020 under Section 84 of the Act, contending that the assessment orders were passed against the Notifications issued by the Government under the provisions of the Tamil Nadu Taxation Laws (Relaxation of Certain Provisions) Ordinance, 2020.

8. The applications have come to be rejected on 31.01.2023 on the ground that there is no mistake apparent on record, since the passing of orders

dated 27.07.2020 was only after issuance of notice duly received by the petitioner, to which there was no response.

9. There is absolutely no infirmity in the impugned orders dated 31.01.2023. The provisions of Section 84 of the Act provide for rectification of assessment on the basis of error apparent on record. In the present case, the records unambiguously reveal the following:

i) There has been no response/reply filed by the assessee within 30 days as directed by this Court on 17.07.2017.

ii) The assessing officer has sent notices on 03.03.2020 bringing it to the notice of the petitioner that it has not complied with the condition of this Court as above.

iii) The above notice was duly received by the petitioner.

iv) There was no response to notice dated 03.03.2020.

10. It is hence that order dated 31.01.2023 has come to be passed and hence, there is no infirmity in the same.

11. This Court is also of the opinion that the petitioner has not come to Court with clean hands. A disclosure ought to have been made in regard to the non-compliance with the directions of this Court, but this fact was only noticed by the Court in the course of hearing.

12. For the aforesaid reasons, this Writ Petition is dismissed with costs of Rs.10,000/- (Rupees ten thousand only), payable to Cancer Institute, Adayar, Chennai. Connected Miscellaneous Petitions are also dismissed.

17.03.2023

Index : Yes / No
Speaking/non-speaking Order
Neutral Citation:Yes/No
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To

The State Tax Officer (FAC)
Tiruppur (South) Assessment Circle
Tiruppur – 641 003

Dr.ANITA SUMANTH,J.

Sl

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