BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.6096 of 2023
and
W.M.P.(MD) Nos.5755 and 5757 of 2023

Sri Rammohan Textiles,
Rep., by its Proprietor, K.C.Rammohan,
Sl.No.380/1, K.Thottiapatti Road,
Rajapalayam, Virudhunagar District. .. Petitioner

Vs.

The Assistant Commissioner (ST)-1(FAC),
Commercial Taxes Department (ST)-1,
Rajapalayam, Virudhunagar District. .. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari to call for the records pertaining to the impugned order passed by the respondent in TIN 33886040428/2015-16, Roc.A4/138/2019 dated 03.02.2020 and quash the same.

For Petitioner : Mr.T.Bashyam

For Respondent : Mr.D.Ghandiraj
Special Government Pleader

ORDER

The petitioner is aggrieved by the impugned order passed by the respondent in TIN: 33886040428/2015-16 [Roc.A4/138/2019], dated 13.02.2020. Therefore, they are before this Court seeking issue of a Writ of Certiorari to quash the said order.

2. The petitioner would submit that they had been served with a notice for the assessment year 2015-16 stating that the petitioner has not given the details of the purchases effected by import in their monthly returns in Form-I along with their annexures and that the petitioner has not disclosed the import purchase in Form-W statement. On receiving this notice, the petitioner has filed a detailed reply in which the petitioner has stated that they have effected import and high sea purchases during the year 2015-16. Though the petitioner has not mentioned it in their monthly VAT return, however, it has been reported in the return for the same financial year. Further, the petitioner has also filed documentary evidence in the form of import invoice, bill of trading etc., along with the

reply. However, in the impugned order, the respondent had contended that the petitioner has not filed any proof of accounts for the purchase of imported cotton and the order also alleges that the petitioner has effected purchase of cotton by import and sold it as such without furnishing the purchase details. The petitioner is aggrieved by the fact that the respondent has not considered the documents filed along with the reply and to add insult to injury, the respondent had observed that the petitioner has not filed any proof for the purchase of imported cotton despite receipt of the letter from the respondent on 12.12.2019.

3. The respondent has filed a counter in which in paragraph 12, the respondent has stated as follows:

> *"12. The Respondent submits that the petitioner had submitted the reply on 17.12.2019 which was received to Rajapalayam-1 office on 14.01.2020. In the reply, the petitioner had submitted the following documents:*
>
> *1. Commercial invoice*
> *2. BILL (Bill of lading)*
> *3. Certificate of insurance*
> *4. Certificate of D origin*
> *5. Certificate of Phytosanitaire*

6. Weight Note"

Despite the above, the impugned order has been passed stating that the petitioner has not filed the requisite document.

4. The learned Special Government Pleader would submit that in the impugned order, it is stated that the documents have not been filed till 12.12.2019 and it appears that only on 14.01.2020, the reply along with the documents have been received. Therefore, no exception can be taken to the order in question.

5. Heard the learned counsel on either side.

6. The fact that the respondent has not considered the petitioner's reply dated 17.12.2019 and the documents filed along with it is evident from mere perusal of the impugned order. The respondent has themselves admitted receipt of this reply and documents on 14.01.2020. While so, the observations of the respondent that there has been no reply or documents from the petitioner is totally baseless and therefore, the

impugned order passed on the basis of this misconception has to be necessarily set aside and is accordingly, set aside. Therefore, this Writ Petition is allowed, the impugned order dated 03.02.2020 is set aside and the matter is remitted back to the respondent for fresh consideration, who shall pass orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

19.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

To

The Assistant Commissioner (ST)-1(FAC),
Commercial Taxes Department (ST)-1,
Rajapalayam, Virudhunagar District.

P.T.ASHA, J.

abr

W.P.(MD) No.6096 of 2023

Dated: 19.04.2023