IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2024

CORAM :
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.13145 of 2022

Tvl. Selvam Traders
Rep. By its Proprietor
Varusai Selvam (M / A 46 Yrs)
S/o. A.Velu, No.84, “O” Block
19th Street, Agasthiyar Nagar
Villuvakkam, Chennai – 600 049. .. Petitioner

Vs.

1. The Commissioner of Commercial Tax
   Ezhilagam Chepauk
   Chennai 600 005.

2. The Assistant Commissioner (CT)
   Madhavaram Assessment Circle, No.32
   Integrated Commercial Taxes Office Building Complex
   Elephant Gate Road
   Chennai 03. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus, to quash the order dated 22.02.2022 for the financial period 2018-19 passed by the second respondent ie., the Assistant Commissioner (CT), Madhavaram Assessment Circle, and direct the second respondent to commence a afresh proceedings to adjudicate the issue by remitting to his file.

For the Petitioner : Mr.J.Ashish

For the Respondents : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

In this writ petition, the petitioner has challenged the impugned order dated 22.02.2022 passed by the second respondent for the Assessment Year 2018-19.

2. The petitioner is challenging the impugned Assessment Order on the ground that the petitioner has not been given adequate opportunity of being heard and therefore, the petitioner may be given one opportunity to explain the case afresh before the second respondent.

3. The writ petition is of the year 2022 and was filed on 17.05.2022. In respect of the impugned order dated 22.02.2022, precedes a show-cause notice dated 30.04.2020, which has not been replied by the petitioner. *Prima facie*, it appears that the petitioner has no case to defend itself against the impugned order as the petitioner failed to respondent to the said show-cause notice dated 30.04.2020.

4. However, considering the fact that the petitioner has not replied to the show-cause notice and the petitioner has been fastened with the tax liability through the impugned order, to balance the interest of the petitioner and the respondent Commercial Tax Department, the impugned order is set aside and the case is remitted back to the respondent, subject to the petitioner depositing 25% of the disputed tax amount with the respondent in cash.

5. The petitioner shall also file a reply to the show-cause notice and the order in original, which shall be treated as an addendum to the show-cause notice, within a period of thirty days from the date of receipt of a copy of this order. Subject to the petitioner paying the aforesaid amount and filing the return, the respondents are at liberty to pass fresh orders, on merits and in accordance with law, preferably within a period of sixty days thereafter.

6. The writ petition, as such, stands disposed of with the aforesaid observations. There shall be no order as to costs. Consequently, W.M.P.Nos.12491 and 12492 of 2022 are closed.

08.11.2024

Index : Yes/No

drm

To

1. The Commissioner of Commercial Tax
   Ezhilagam Chepauk
   Chennai 600 005.

2. The Assistant Commissioner (CT)
   Madhavaram Assessment Circle, No.32
   Integrated Commercial Taxes Office Building Complex
   Elephant Gate Road
   Chennai 03.

C.SARAVANAN,J.

(drm)

W.P.No.13145 of 2022

08.11.2024