IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2024

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE C.SARAVANAN

Tax Case No.22 of 2024
and C.M.P.No.17204 of 2024

Tvl.Sri Devi Oil Private Limited
S.F.No.279-6, Villipalayam
Paramathi Velur Taluk
Namakkal District. .... Petitioner

Vs.

The State of Tamil Nadu
Represented by the
Joint Commissioner (CT)
Salem Division, Salem. .... Respondent

Tax Case filed under Section 60(1) of the TNVAT Act, 2006 against the order of the Tamil Nadu State Appellate Tribunal (Additional Bench), Coimbatore dated 27.07.2022 in S.T.A.No.37 of 2014.

For Petitioner : Mr.M.Hariharan
for Ms.G.Dhana Madhiri

For Respondent : Mr.G.Nanmaran
Special Government Pleader

O R D E R

(Order of the Court was made by **R.SURESH KUMAR,J.**)

This Tax Case has been filed against the order passed by the Tamil Nadu Sales Tax Appellate Tribunal Additional Bench, Coimbatore in State Appeal No.37 of 2014 by an order dated 27.07.2022.

2.This order is under challenge on the sole ground that it was an exparte order, by which the State Appeal was allowed. The appeal was filed against the order of the Appellate Deputy Commissioner (CT) (FAC) Salem in TNVAT AP No.38 of 2013 dated 15.10.2013 relating to the assessment year 2012-13 under the TNVAT Act 2006. Before passing the exparte order, even though it was claimed by the Tribunal that notices were sent several times from 11.09.2014 to 09.11.2019, those notices have been sent to the erstwhile address of the petitioner viz., S.F.No.279-6, Villipalayam, Paramathi Velur Taluk, Namakkal District - 637 206. However, the fact remains that insofar as the said property is concerned, the State Bank of India, having completed the proceedings under the SARFAESI Act after issuing a notice under Section 13(2) of the Act issued on 04.01.2014, had taken over the property pursuant to a notice dated 06.08.2014 under Section 13(4) of the SARFAESI Act. Immediately, the petitioner had vacated the premises and they shifted to the new address ie., at No.171, Co-operative Colony, Mohanur Road, Namakkal-637 001, where they have been continuously residing.

3. It is the definite case on the part of the petitioner that not even a single notice has been served on the petitioner in the present address and therefore there was no occasion for the petitioner to receive any notice from the Tribunal and therefore the consequential failure on the part of the petitioner in not appearing before the Tribunal cannot be attributable to the petitioner. Therefore, absolutely there has been no justification on the part of the Tribunal to pass an exparte order without having served any notice on the petitioner in the manner known to law. Therefore, on that sole ground the petitioner questions the order impugned before this Court.

4. We have considered the submissions of the learned counsel on either side and have gone through the materials placed on record.

5. The fact remains that on 06.08.2014 the property belongs to the petitioner ie., the address permanently given for all communications since have

been vacated, none of the notices had been served on the petitioner. The notices sent by the Tribunal from 11.09.2014 till 18.07.2019 seems to have been served only to the said old address from where the petitioner has already vacated on 06.08.2014. Therefore, it becomes clear that the notices have not been served even a single time and hence absolutely there is no justification in setting the petitioner exparte and allowing the appeal by way of an exparte order.

6. Therefore, on this sole ground we are inclined to interfere with the impugned order. Resultantly, the impugned order is set aside and the Tax Case Revision is allowed to the extent of remitting the matter back to the Tribunal for re-hearing after giving an opportunity of being heard to the petitioner by giving a notice to the petitioner in the present address which has been noted in this order itself. Once the notice is served to the petitioner in the new address as indicated above, the petitioner, without any delay, shall appear before the Tribunal on the hearing date to be fixed in this regard. Thereafter, after giving opportunity to both sides, the appeal shall be decided by the Tribunal within a period of three months.

7. With the above directions, the Tax Case revision is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.) (C.S.N.,J.)
20.08.2024

Index : Yes/No
Internet : Yes/No
KST

To

The Joint Commissioner (CT)
State of Tamil Nadu
Salem Division, Salem.

R.SURESH KUMAR, J.
and
C.SARAVANAN, J.

KST

T.C.No.22 of 2024

20.08.2024