
(2014) 11 MAD CK 0447

Madras High Court (Madurai Bench)

Case No: Writ Petition No. 17856 of 2014 and M.P. (MD) No. 1 of 2014

Sun Paper Mill Public Ltd.

APPELLANT

Vs

The Commercial Tax Officer

RESPONDENT

Date of Decision: Nov. 6, 2014

Hon'ble Judges: M. Venugopal, J

Bench: Single Bench

Judgement

@JUDGMENTTAG-ORDER

M. Venugopal, J.

The Petitioner has preferred the instant Writ of Certiorari, calling for the records of the Respondent in his proceedings in TIN 33715620172, quash the Notice, dated 10.03.2014 issued therein.

2. According to the Learned Counsel for the Petitioner, the impugned Notice, dated 10.03.2014, requiring the Petitioner to submit its explanation for the difference of tax and to pay a sum of Rs.99,14,199.01 with interest at the rate of 2% per month within 7 days on receipt of those Notice etc., is illegal and arbitrary one in the eye of Law because of the simple reason that the said notice suffers from violation of principles of natural justice and contrary to the provisions of Tamil Nadu Value Added Tax Act, 2006.

3. Advancing his argument, the Learned Counsel for the Petitioner submits that calling upon the Petitioner to pay the difference of tax in question together with interest without there being an adjudication in the subject matter in issue is clearly an illegal and the same cannot be countenanced in the eye of Law.

4. Expatiating his contention, the Learned Counsel for the Petitioner emphatically contends that the Respondent had not provided with a reasonable opportunity to the Petitioner by issuing show cause notice before passing any order of assessment. Also that, no working sheet for the claim made dated 10.03.2014 was provided to the Petitioner, by the Respondent. Added further, it is represented on behalf of the

Petitioner that till date, the Respondent had not furnished the copy of the web report nor given the detailed working sheet to the Petitioner, notwithstanding the fact that such a request was made by the Petitioner before the Respondent.

5. At this stage, it comes to be known that the Petitioner had addressed a reply dated 19.03.2014 inter alia stating that they had calculated the correct sales taxes and paid the same for all financial years and filed the returns also on time and they had also further stated that if there was any difference of tax to be paid by it / Company, the detailed workings of taxability may be provided to it so as to enable it to proceed for further action at their end.

6. It appears that once again, the Respondent had issued Notice on 11.07.2014 claiming the difference of tax of Rs.99,14,199.01 from the petitioner granting him 7 days" time to submit explanation. Pursuant to the said 2nd notice dated 11.07.2014, the Petitioner had caused a reply dated 18. 07.2014 once again reiterating that it may be provided with detailed workings for the differential turnover and Differential Tax claimed in terms of Notice, dated 11.07.2014 and sought for 45 days more time, from 18.07.2014 till 31.08.2014, to enable them to furnish a detailed reply towards the Notice dated 11.07.2014 in question, considering the huge volume of transaction, which relates to four years.

7. At this juncture, this Court more pertinently points out for the original reply dated 19.03.2014 and for the subsequent reply dated 18.07.2014 given by the Petitioner, addressed to the Respondent, the Respondent has not provided the detailed working sheet in respect of difference of tax of Rs.99,14,199.01, claimed by the Department. In effect, it is candidly clear that the respondent till date had not complied with the requests of the Petitioner made in his reply dated 19.03.2014 and 18.07.2014. For non furnishing of detailed working sheet in regard to the difference of tax of Rs.99,14,199.01, as claimed by the Respondent, this Court comes to an irresistible and inescapable conclusion that the impugned notices dated 10.03.2014 and 11.07.2014 are liable to be interfered with in the interest of justice for the simple reason that there has been a Negation of the principles of natural justice and accordingly, this Court interfere with the said impugned notices dated 10.03.2014 and 11.07.2014, issued by the Respondent, addressed to the Petitioner and sets aside the same in furtherance of substantial cause of justice. Consequently, the Writ Petition succeeds.

8. In the result, the Writ Petition is allowed and the impugned Notices dated 10.03.2014 and 11.07.2014 issued by the Respondent, addressed to the Petitioner, are hereby quashed. Further, liberty is granted to the Respondent to issue a fresh Notice to the Petitioner by claiming difference of tax to be paid by it, by providing a detailed working sheet in regard to the amount claimed and also that the Petitioner shall be provided with an adequate / enough opportunities to furnish its reply and after receipt of reply from the Petitioner, the Respondent is to proceed further and to pass a reasoned, speaking order on merits, in a Fair, Just and Dispassionate

manner, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the Respondent shall pass orders in question uninfluenced and untrammelled with any of the observations made by this Court in this Writ Petition. No costs. Consequently, connected Miscellaneous Petition is closed.