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(2016) 01 MAD CK 0173

In the Madras High Court

Case No : W.P. Nos. 602, 603 of 2016, WMP. Nos. 436 and 437 of 2016

Fresh and Honest Cafe Ltd. APPELLANT

Vs

The Assistant Commissioner (CT), Velachery Assessment Circle RESPONDENT

Date of Decision : 18-01-2016

Acts Referred:
Central Sales Tax Act, 1956 — Section 6-A

Citation : (2016) 01 MAD CK 0173

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : Aparna Nandakumar, for the Appellant; S. Manoharan Sundaram, Additional Govt. Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

R. Mahadevan, J.—1. By consent, both the writ petitions are taken up for final disposal.

2. Challenging the assessment orders dated 30.10.2015 passed by the respondent relating to the years 2013-14 and 2014-15, the petitioner has filed the present writ petitions.

3. According to the petitioner, the petitioner, being a registered dealer, is engaged in the business of coffee beans and seeds and coffee vending machines with the brand name "Fresh & Honest". For the assessment years 2013-14 and 2014-15, the petitioner duly filed its returns, wherein, they claimed concessional rate of tax at 2% on inter-state sales against C-forms and exemption on stock transfer under Section 6-A of the Central Sales Tax Act and also on export sales. While so, the respondent issued pre-assessment notices dated 15.10.2015, calling upon the petitioner to submit their objections, within 15 days time, about the proposals to disallow the claim of concessional rate of tax on inter-State sales for non-submission of C-forms and to reverse the input tax credit with

reference to the corresponding assessment under the TNVAT Act. On receipt of the same on 19.10.2015, the petitioner has taken steps to collect the entire statutory forms, but they could not able to do so. Hence, the petitioner sought for further time for production of entire set of statutory forms to the respondent. However, without considering the petitioner''s request, the respondent passed the assessment orders for the years in question before the expiry of time for filing objections. Therefore, the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that without providing sufficient time to the petitioner for production of the required documents, the respondent passed the impugned orders, as such, the same are arbitrary, illegal and against the principles of natural justice. Further, learned counsel for the petitioner submitted that after filing these writ petitions, the petitioner produced all the statutory forms before the respondent and also received acknowledgment.

5. On the other hand, Mr. S.Manoharan Sundaram, learned Additional Government Pleader, who took notice for the respondent, does not agree with the submission made by the learned counsel for the petitioner except with regard to production of the required statutory forms by the petitioner.

6. Heard both sides and considered the materials available on record.

7. Admittedly, pre-assessment notices were issued on 15.10.2015, calling upon the petitioner to file their objections if any within a period of 15 days and the same were received by the petitioner on 19.10.2015. Even before expiry of the time limit granted under the notices, the respondent passed the impugned assessment orders for the years in question. Such course adopted by the respondent, in my opinion, cannot be countenanced, as the same is arbitrary, illegal and in violation of the principles of natural justice.

8. Therefore, the impugned orders dated 30.10.2015 passed by the respondent for the assessment years 2013-14 and 2014-15 are liable to be set aside. Accordingly, the same are set aside and the matters are remitted back to the Assessing Officer for passing fresh assessment orders for the years in question. As it is now submitted by the learned counsel for the petitioner that the petitioner has produced all the statutory forms to the respondent and the same was also accepted by the learned Additional Government Pleader appearing for the respondent, the Assessing Officer is directed to look into all the statutory forms and pass fresh orders on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

9. Both the writ petitions are disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

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