(2010) 02 MAD CK 0212

In the Madras High Court

Case No : Writ Petition No. 1541 of 2010 and M.P. No''s. 1 and 2 of 2010

Prompt Copier Services APPELLANT

Vs

Assistant Commissioner (CT) (FAC) RESPONDENT

Date of Decision : 10-02-2010

Acts Referred:

Citation : (2011) 44 VST 95

Hon'ble Judges : P. Jyothimani, J

Bench : Single Bench

Advocate : Senniappan for A. Ravichandran, for the Appellant; R. Mahadevan, Additional Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

P. Jyothimani, J.—Heard the learned counsel for the petitioner and Mr. R. Mahadevan, learned Additional Government Pleader for the respondent. The impugned order of assessment is assailed on various grounds including that the petitioner in its representation dated February 27, 2007 has requested the respondent to issue a copy of godown bound note taken by enforcement wing during inspection for clarification purpose and the said material has not been furnished before passing the impugned order of assessment.

2. At the outset, it is clear as it is seen in the letter dated February 27, 2007, the petitioner has requested the respondent to furnish the godown bound note taken for clarification purpose, however, thereafter on August 2, 2007, the petitioner has received notice calling upon him to file objections from the assessing authority and he has not filed any objections or produced any documents. The authority has waited for nearly two years and ultimately has passed the impugned order of assessment on October 30, 2009 and at this point of time, the order of assessment is challenged on the ground of non-production of documents.

3. As it is seen in the circular issued by the Department, there is no time-limit for passing order once pre-assessment notice is issued. That apart, if the case of the

petitioner is that due to non-furnishing of the godown bound note stated to have been taken by the enforcement wing during inspection, he has not given proper explanation, it is for him to workout his remedy by filing an appeal within a period of 30 days from the date of receipt of the impugned order of assessment.

4. The reason stated in the impugned order is that the petitioner has reported lesser turnover, whereas the respondent demanded total and taxable turnover of Rs. 1,16,12,410.

5. It is also seen that summons have been issued on the petitioner directing him to appear on many occasions, however, the petitioner has not chosen to appear before the respondent.

6. Inasmuch as, it is not a fit case for granting the relief as prayed for and this court cannot direct the respondent to pass fresh orders once again, if the petitioner has any reason that he was unable to file objections due to the non-furnishing of godown bound note, it is for him to explain the same before the appellate authority and can take effective defence. In such circumstances, the writ petitioner is not entitled for any relief claimed in this writ petition. Accordingly, the writ petition is dismissed giving liberty to the petitioner to file an appeal before the appellate authority. If such an appeal is filed within a period of 15 days from the date of receipt of a copy of this order, the appellate authority shall take up the appeal and decide the matter on the merits and in accordance with law without rejecting the same on the ground of limitation and final orders shall be passed within a period of three months thereafter, without being influenced by the dismissal of the writ petition. However, it is open to the appellate authority to take note of the defence taken in this writ petition. No costs. Consequently, connected M. P. Nos. 1 and 2 of 2010 are closed.