(2012) 06 MAD CK 0003

In the Madras High Court

Case No : Writ Petition No. 16109 of 2012 and M.P. No. 1. of 2012

Thiruneelakandar Paint Company APPELLANT

Vs

Assistant Commissioner (CT) RESPONDENT

Date of Decision : 26-06-2012

Acts Referred:
Tamil Nadu Value Added Tax Act, 2006 — Section 87A

Citation : (2013) 58 VST 183

Hon'ble Judges : P.P.S. Janarthanaraja, J

Bench : Single Bench

Advocate : R. Senniappan, for the Appellant; A.R. Jayaprathap, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

P.P.S. Janarthanaraja, J.—With consent of both the parties, the writ petition is taken up for final hearing. The period of assessment involved

in the present case is from 1st day of April, 2006 to 31st day of December, 2006. It is stated in the affidavit filed in support of the writ petition that

the petitioner filed monthly returns, in form A1, for the abovesaid period. After the receipt of the returns, filed by the petitioner, the respondent

issued a notice, dated November 14, 2011. The petitioner also filed an objection to the above notice and requested the respondent to pass orders,

as per the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as, ""the Act""). Thereafter, the respondent issued the

impugned revised notice dated June 8, 2012, calling upon the petitioner to file objection within a period of 15 days from the date of receipt of the

notice.

2. The learned counsel for the petitioner submitted that, as per section 87A and

rule 8(8)(a) of the Act, the revised notice, impugned herein, is

illegal and without jurisdiction. The learned counsel also vehemently contended that, before the interregnum period, as stated above, the returns

filed by the petitioner, should be accepted by the Revenue Officials, without calling for any accounts or particulars. But, the respondent, without

following the provisions contemplated u/s 87A of the Act and rule 8(8)(a), issued the revised notice, which is unsustainable.

3. The learned Additional Government Pleader appearing for the respondent submitted that section 87A of the Act contemplates that the

assessment for the period from 1st day of April, 2006 to the 31st day of December, 2006, shall be on the basis of the returns filed by the

petitioner. Therefore, the learned Additional Government Pleader submitted that a suitable direction may be given to the respondent to follow the

provisions contemplated under the said Act.

4. Heard the learned counsel for the parties and perused the documents on record.

5. To appreciate the contentions of the learned counsel appearing on either side, it would be beneficial to extract section 87A of the Act and rule

8(8)(a), which is as hereunder:

Assessment of sales in certain cases.-- Notwithstanding anything contained in this Act, the assessment of a dealer under the Tamil Nadu General

Sales Tax Act, 1959 (Tamil Nadu Act 1 of 1959) or under the Tamil Nadu Additional Sales Tax Act, 1970 (Tamil Nadu Act 14 of 1970), in

respect of the assessment for the period from the 1st day of April, 2006 to the 31st day of December, 2006, shall be on the basis of the return

filed by him, within such time and in such manner; as may be prescribed and such return shall be accepted in accordance with the Rules, as may be

prescribed.

R. 8(8)(a). The assessment relating to the period from 1st day of April, 2006 to 31st day of December, 2006, shall be deemed assessment and

accordingly the assessing officer shall accept the returns filed under the repealed Act within the period already prescribed and assess the dealers

without calling for the accounts from the dealers.

6. A reading of section 87A of the Act and rule 8(8)(a), makes it clear that, in respect of the assessment for the period from 1st April, 2006 to

31st December, 2006, the assessing officer has to pass orders, based on the returns filed by the petitioner within such time and such manner, as

prescribed in the said Act, without calling for any particulars.

7. In the present case on hand, the respondent, without following the provisions contemplated u/s 87A of the Act and rule 8(8)(a), issued the

revised notice, which is without basis and jurisdiction. Therefore, the revised notice, impugned herein, issued by the respondent is liable to be set

aside. Accordingly, the revised notice dated June 8, 2012, is set aside and the writ petition is allowed, with a direction to the respondent to

complete the assessment for the aforesaid period, i.e., from April 1, 2006 to December 31, 2006, as per the provisions contemplated u/s 87A of

the Act and rule 8(8)(a) and pass appropriate orders in accordance with law. No costs. Consequently, connected M.P., is closed.