IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12986 of 2015
and
M.P.No.1 of 2015

Tvl.The PCK Buderus [India] Special Steels Pvt.Ltd.,
Rep. By its Director P.K.Laxman,
No.13, South West Boag Road,
T.Nagar, Chennai - 17 . ... Petitioner

Vs.

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai - 28. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorarified mandamus to call for the records on the file of the respondent in CST No.638968/2007-08, dated 31.03.2015, and quash the same being illegal, invalid, without jurisdiction and violated the principles of natural justice and contrary to the principle laid down by this Court and direct the respondent to consider the petitioner representation dated 09.04.2015 before passing the assessment order.

For Petitioner :Mr.D.Vijayakumar
For Respondents :Mr.Manoharan Sundaram, AGP (T)

ORDER

With the consent of the learned counsel appearing on either side, the writ petition is taken up for final disposal.

2. The petitioner has filed the writ petition challenging the impugned order dated 31.03.2015 on the ground that the respondent has violated the principles of natural justice, since he did not issue any notice before passing the impugned order.

3. It is the contention of the learned counsel for the petitioner that the respondent has no jurisdiction to pass the impugned assessment order under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, read with Section 9(2-A) of the Central Sales Tax Act, for, the assessment order was set aside by this Court in W.P.No.25175 of 2013, dated 11.12.2013, with a direction to pass

order after considering the petition dated 07.08.2013 of the petitioner in accordance with law, therefore, the respondent ought to have issued fresh notice calling upon the petitioner to come for personal hearing. It is further submitted that the petitioner has filed both 'C' Forms for the taxable value of Rs.14,71,80,993/- and 'F' Forms for the entire value of Rs.45,83,48,300/-, along with the export documents for the entire export sale turnover, however, the respondent has wrongly come to the conclusion that the petitioner had not filed Form 'F' and transport details for the remaining turnover of Rs.1,71,76,712/-. Again, he has proceeded wrongly on the premise that in the absence of Form 'F', the turnover of Rs.1,71,76,712/- was assessed to tax at 4%.

4. A mere reading of the representation dated 07.08.2013 of the petitioner clearly shows that the petitioner has submitted Form 'C' for the taxable value of Rs.14,71,80,993/- and Form 'F' for the entire value of Rs.45,83,48,300/-. Therefore, this Court is unable to follow the impugned order as to how the Assessing Officer could come to the conclusion that the petitioner has filed Form 'F' and transport details to the tune of Rs.44,11,71,588/-.

5. That apart, in an earlier occasion, this Court, by order dated 11.12.2013, passed in W.P.No.25175 of 2013 filed by the petitioner challenging the impugned order of assessment in CST No.638968/2007-08, dated 28.06.2013, by setting aside the impugned assessment order, remitted the matter back to the respondent for fresh consideration, with a further direction to the petitioner to produce 'C' Forms, therefore, the respondent ought to have issued a fresh notice before passing the impugned order. Had there been a simple notice to the petitioner, in my view, the issue would have been sorted out at that time itself. Therefore, this Court, by setting aside the impugned order, once again remits the matter back to the respondent to consider the issue afresh on merits, after providing an opportunity of personal hearing to the petitioner by issuing notice to the petitioner.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Nandanam Assessment Circle,
No.46, Greenways Road,
Chennai - 28.

+1 cc to Spl.Government Pleader (T),SR.26200

+1 cc to Mr.D.Vijayakumar, Advocate,SR.26070.

Pvr(co)
krd 25/6

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