IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.05.2015

CORAM

THE HONOURABLE MR.JUSTICE R. SUBBIAH

Writ Petition No.14577 of 2015
and M.P.No.1 of 2015

M/s.Bay Forge Ltd.,
rep by its Managing Director ... Petitioner

Vs.

The Assistant Commissioner (CT),
Alwarpet Assessment Circle,
No.46, Greenways Road,
R.A.Puram, Chennai – 600 028. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus, to call for the entire records of the respondent in TIN/33890820513/2010-11 dated 18.03.2015 and quash the order passed therein and direct the respondent to redo the revision of assessment as per law by considering the objections filed by the petitioner dated 06.03.2015 and after giving personal hearing to the petitioner.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.S.Kanmalai Annamalai
Additional Government Pleader (Tax)

O R D E R

This writ petition has been filed under Article 226 of the Constitution of India, seeking an order in the nature of Writ of certiorarified Mandamus, to call for the entire records of the respondent in TIN/33890820513/2010-11 dated 18.03.2015 and quash the order passed therein and direct the respondent to redo the revision of assessment as per law by considering the objections filed by the petitioner dated 06.03.2015 and after giving personal hearing to the petitioner.

2.The case of the petitioner is that the petitioner is a dealer in Steel and Aluminium Forgings and registered on the file of the respondent under the Tamil Nadu Value Added Tax Act, 2006. The petitioner is filing monthly returns for the assessment year regularly. The self assessment submitted by the petitioner for the year 2010-11 was accepted by the Department. Subsequently, there was a VAT Audit in the premises of the petitioner on 28.07.2014 and after that a revision of assessment notice dated 06.02.2015 was issued by the respondent, wherein the following proposals were made:

(i) Reversal of ITC on the purchase of Capital Goods

(ii) ITC reversal as the purchase made from RC cancelled dealers

(iii) Higher rate of tax for want of C forms

(iv) Reversal of ITC on the CST turnover not covered by C forms.

3. The petitioner has filed a detailed reply dated 06.03.2015 objecting to the proposals of the respondent. Subsequently, the respondent sent an intimation dated 09.03.2015 that the details of cancellation of registration of selling dealers is already intimated by the enforcement officials at the time of

inspection and the petitioner is given time upto 17.03.2015 to file objections and the petitioner can avail the opportunity of personal hearing on any working day before 17.03.2015. The petitioner filed further objections dated 14.03.2015. After filing the objections only, personal hearing has to be given, because personal hearing is not an empty formality. But without giving an opportunity of personal hearing, the respondent has passed the impugned order on 18.03.2015. Hence, aggrieved over the same, the present writ petition has been filed.

4. In the similar nature of writ petition, this Court by placing reliance upon the judgment of the Division Bench of this Court reported in 2010 33 VST 333 Madras [SRC Projects Private Ltd., rep. by its Chief Executive Officer, Salem Vs. Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai and another], has quashed the order directing the Assessing Authority to consider the objection and to pass a reasonable order. A copy of the order dated 30.10.2014, passed in the Writ Petitions in W.P.Nos.28322 to 28324 of 2014, is also produced before this Court.

5. Hence, following the same, a similar order is passed. Since no personal hearing was given to the petitioner before passing the impugned order dated 18.03.2015, the same is quashed. The respondent/Assessing Authority is

directed to independently consider the objections filed by the petitioner, on merits and in accordance with law and by affording personal hearing to the petitioner, and then pass orders, preferably within a period of eight weeks from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

14.05.2015
(2/5)

Index: Yes/No
Internet: Yes/No
va/ars

To

The Assistant Commissioner (CT),
Alwarpet Assessment Circle,
No.46, Greenways Road,
R.A.Puram, Chennai – 600 028.

R. SUBBIAH,J.

va/ars

W.P. No.14577 of 2015
(2/5)

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