IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.16860 of 2015
And
M.P.No.1 of 2015

M/s.Dalmia Laminators Ltd
Rep by its Authorised Signatory ... Petitioner

Vs.

The Assistant Commissioner (CT)
Gummidipoondi Assessment Circle
Chennai. ... Respondent

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the respondent in the impugned order in TIN No.33450920277/2009-10 dated 11.05.2015, quash the same as it violates the principles of natural justice.

For Petitioner : Mr.K.Vaitheeswaran
For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (T)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Taxes) appearing for the respondent. With the consent of either side, this writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed this writ petition seeking issuance of Certiorari to call for the records of the respondent in the impugned order in TIN No.33450920277/2009-10 dated 11.05.2015, quash the same as it violates the principles of natural justice, and the orders of this Court dated 01.04.2015.

3.Learned counsel for the petitioner would state that the petitioner, in the earlier round of litigation relating to the assessment years 2011-2012 and 2012-2013, against the reversal of ITC in the orders dated 27.02.2015, had approached this Court by writ petitions in W.P.Nos.9564 and 9565 of 2015 and this Court considering the merits of the case set aside the impugned orders therein vide order dated 01.04.2015 with a direction to the respondent to give opportunity of personal hearing and the said order was placed before the respondent and the respondent without any reference to the same has observed in the impugned order as follows:

> "u) In respect of personal hearing sought for, it is noticed that as per proviso to Section 27 (2) and 27 (4) of the Act, a reasonable opportunity of show cause notice only has to be issued which is issued. As such, their requested is not considered as they have also filed reply and objections in detail for all the proposed reversal of ITC."

Hence, the learned counsel seeks appropriate orders.

4.It is useful to extract the relevant portion of the order of this Court dated 01.04.2015 made in W.P.Nos.9564 and 9565 of 2015 which reads as follows:

> "5. Considering the submissions made by the learned counsel for the petitioner, this Court is of the view that on the ground of not affording an opportunity of personal hearing to the petitioner and on the ground of non perusing of the voluminous documents though produced before the respondent, the impugned orders are liable to be set aside and the matters have to be remitted back to the authority concerned for passing orders afresh.
>
> 6. Accordingly, the impugned orders are set aside. The matters are remitted back to the respondent for considering the case of the petitioner afresh on merits and in accordance with law, after affording an opportunity of being heard and perusing the documents sought by them.
>
> 7. The petitioner is directed to appear before the respondent on any working day prior to 15.05.2015, after intimating the date on which he is going to appear to the respondent to putforth his objections if any. On the date of such appearance, the petitioner shall make his verbal submissions as well as file documents, which the authority shall consider and pass appropriate orders on merits and in accordance with law, within 15 days from the date of giving personal hearing to the petitioner.
>
> The writ petitions are disposed of with the above direction. No costs. Connected miscellaneous petitions are closed."

5.When that being the case, the denial of personal hearing by the respondent is nothing but blatant violation of the order of this Court. The respondent should always follow the orders of this Court with utmost regard and never undo the requirement of judicial discipline in giving effect to the orders which are binding on him. In view of the above the impugned order is set aside and this Court, in the light of the order dated 01.04.2015 made in W.P.Nos.9564 and 9565 of 2015, directs the respondent to give an opportunity of personal hearing to the petitioner within a period of fifteen days from the date of receipt of a copy of this order, so as to enable the petitioner to put forth his case along with detailed objections as well as documentary evidence, if any, and on receipt of such detailed objections as well as documentary evidence, the respondent shall consider the same on merits and in accordance with law and pass appropriate orders within a period of fifteen days thereafter.

6.This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is also closed.

-s/d-
Assistant Registrar(CSIII)
dt:08/09/2015

True Copy

Sub-Assistant Registrar

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To

The Assistant Commissioner (CT)
Gummidipoondi Assessment Circle
Chennai.

+1 cc to Special Government Pleader (Taxes)
High Court Madras sr.42592/15

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