IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.17190 to 17192 of 2015

M/s Kaizen Cold Formed Steel Private Limited
represented by its Director
19B, Ethiraj Salai
Shivalaya Building
8 Block Door No.801, 8th Floor
Egmore, Chennai 600 008 .. Petitioner in all the writ petitions

-vs-

The Assistant Commissioner (CT)
Egmore Assessment Circle
Taluk Office Building II Floor
Spur Tank Road
Chennai 600 031 .. Respondent in all the writ petitions

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN/33600442615/2009-10, 2010-11 & 2011-12 dated 10.4.2015 and quash the same as passed contrary to the principles of natural justice and also without considering the revised notice dated 5.3.2015 issued by respondent and the objections dated 28.3.2015 filed by the petitioner.

For Petitioner :: Mr.P.Rajkumar

For Respondent :: Mr.S.Kanmani Annamalai
Addl.Government Pleader (Taxes)

ORDER

These three writ petitions have been filed by M/s Kaizen Cold Formed Steel Private Limited represented by its Director challenging the impugned orders of assessment passed in respect of the assessment years 2009-10, 2010-11 and 2011-12 respectively on the ground of violation of the principles of natural justice.

2. Learned counsel for the petitioner submitted that the petitioner doing business in iron and steel products is an assessee

before the respondent-Assistant Commissioner (CT), Egmore Assessment Circle and they had filed the monthly returns under the Tamil Nadu Value Added Tax Act for the financial years 2009-10, 2010-11 and 2011-12 respectively. While so, their place of business was inspected by the enforcement wing officials on 6.8.2012 and thereafter the petitioner was issued with the notices dated 17.2.2015 indicating the following defects, namely, (i) that as per verification of Annexure-II of the sellers, purchase omissions were noticed; (ii) that as per verification of Annexure-II of the sellers and as per verification of Annexure-I of the buyers, excess credit of input tax credit were claimed; (iii) that input tax credit on purchases from registration cancelled dealers were claimed and (iv) that there was defective stock reconciliation in respect of the assessment years in question and also proposed to assess the related turnover at the appropriate rate along with penalty. On receipt of the said notices, the petitioner, by letters dated 3.3.2015, sought 30 days time to file their detailed reply. However, the respondent had once again issued the revised notices dated 5.3.2015, which was received by the petitioner on 11.3.2015, proposing to assess the tax omissions along with penalty under Section 27 of the Tamil Nadu Value Added Tax Act, for which also the petitioner sought 20 days time to file their detailed reply by letters dated 25.3.2015. It was further contended that even though the petitioner sought for the grant of 20 days time, by letters dated 25.3.2015, the petitioner filed their detailed objections. However, on the refusal of the respondent to accept the said objections, the same were sent by registered post and the same reached the respondent on 16.4.2015. But the respondent passed the impugned orders on 10.4.2015, which were communicated to the petitioner on 30.4.2015. Assailing the approach adopted by the respondent in issuing the notices dated 17.2.2015 followed by the revised notices dated 5.3.2015 under Section 27 of the Tamil Nadu Value Added Tax Act, it was contended before this Court that when the petitioner repeatedly sought for time to file their detailed reply to the notices dated 17.2.2015 and also to the revised notices dated 5.3.2015, in all fairness, the respondent ought to have given some reasonable time to the petitioner to file their detailed reply. However, since the petitioner filed their detailed objections by letters dated 28.3.2015, which were received by the respondent on 16.4.2015 through registered post, the respondent ought to have considered the objections raised by the petitioner before passing the impugned orders dated 10.4.2015 and communicated to the petitioner on 30.4.2015. Therefore, the learned counsel contended that the impugned orders are liable to be interfered with for violation of the principles of natural justice.

3. Per contra, the learned Additional Government Pleader for the respondent submitted that the petitioner, on receipt of the revised notices dated 5.3.2015 on 11.3.2015, sought for 20 days time to file their objections by letters dated 25.3.2015. Finally, when the petitioner filed the objections only on 16.4.2015, it is not open to the petitioner to say that they had filed the objections before the

passing of the impugned orders.

4. Be that as it may, in the present cases, the respondent had issued the notices dated 17.2.2015 to the petitioner calling for objections. On receipt of the same, the petitioner by letters dated 3.3.2015 sought for 30 days time to file their detailed reply. However, without considering the said request, the respondent has proceeded to issue the revised notices dated 5.3.2015, which came to be received by the petitioner on 11.3.2015, for which the petitioner sought for 20 days time. But the respondent, without granting some reasonable time, has passed the impugned orders dated 10.4.2015 and communicated the same to the petitioner on 30.4.2015, even after the receipt of the objections through registered post on 16.4.2015, on the ground that no objections were filed by the petitioner. The said approach adopted by the respondent is contrary to the principles of natural justice. Therefore, this Court is inclined to accept the case of the petitioner for reconsideration of the issue on the basis of the objections received on 16.4.2015. Accordingly, the impugned orders are set aside and the matters are remitted back to the respondent for reconsideration of the issue on merits on the basis of the detailed objections filed by the petitioner and for passing appropriate orders by providing personal hearing to the petitioner. Learned counsel for the petitioner also sought permission to file additional objections. Needless to mention that the petitioner shall file the additional objections before the respondent along with a copy of this order without asking for any further time. The writ petitions are allowed. Consequently, M.P.No.1 of 2015 are closed. No costs.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

The Assistant Commissioner (CT)
Egmore Assessment Circle
Taluk Office Building II Floor
Spur Tank Road
Chennai 600 031

+1 cc to Government Pleader sr.29699
+1 cc to Mr.P.Rajkumar Advocate in Sr.no.29813

W.P.Nos.17190 to 17192 of 2015

lrs(co)
aa24/08/2015