IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21242 of 2015

M/s.Super Audio (Madras) P Ltd.,
By its Director Mr.Navin N.Daswani,
Carex Building, 2nd Floor,
No.713, Anna Salai, Chennai - 600 006. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Anna Salai Assessment Circle,
4th Floor, CT Annexe Building,
Greams Road, Chennai - 600 006. ... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the records of the impugned order of the respondent dated 22.06.2015 under reference CST:789963/2013-14 and to quash the same, as the same has been passed in total violation to the principles of natural justice and without jurisdiction rendering the same untenable in law.

For Petitioner :Mr.N.Viswanathan

For Respondent :Mr.S.Kanmani Annamalai, AGP (T)

ORDER

The present writ petition is directed against the impugned proceedings passed by the respondent / Assistant Commissioner (CT), Anna Salai Assessment Circle, Chennai, in CST:789963/2013-14, dated 22.06.2015, on the ground of violation of principles of natural justice, since the respondent did not consider the reply dated 23.03.2015 submitted by the petitioner while passing the impugned proceedings.

2. Learned counsel for the petitioner brought to the notice of this Court a reply dated 23.03.2015 filed by him objecting each and every points raised by the respondent in their notice dated 06.03.2015. Though the said reply was acknowledged by the respondent

department on 25.03.2015, the respondent failed to refer to the said reply of the petitioner, while passing the impugned proceedings.

3. Learned Additional Government Pleader (Tax) appearing for the respondent submitted that the petitioner has not chosen to reply directly to the assessing officer, but, he has dropped the said reply only in the post-box kept in the office of the respondent, therefore, such reply of the petitioner had inadvertently lost sight of by the respondent, while passing the impugned proceedings and thus, he sought for a direction to the respondent to pass the impugned proceedings afresh after considering the petitioner's reply dated 23.03.2015.

4. But, this Court is unable to agree with the above said submissions of the learned Additional Government Pleader (Tax) about the non-receipt of reply dated 23.03.2015 submitted by the petitioner. It is seen from the typed set of papers filed by the petitioner that the respondent department has acknowledged the receipt of reply dated 23.03.2015 submitted by the petitioner objecting the notice dated 06.03.2015 of the respondent regarding high rate of tax of pre-recorded CDS and DVDs . Therefore, I find that the respondent ought not to have proceeded against the petitioner on the premise that the dealer neither filed any reply nor objection against the notice dated 06.03.2015 of the respondent, hence, on this short ground alone, the impugned order is liable to be set aside on the ground of violation of principles of natural justice and accordingly, the same is set aside. Consequently, this matter is remitted back to the respondent to consider the entire case of the petitioner afresh upon considering the reply dated 23.03.2015 submitted by him on merits and in accordance with law as expeditiously as possible. The respondent is further directed to provide an opportunity of personal hearing to the petitioner before deciding the claim of the petitioner.

5. In fine, the writ petition stands allowed. No Costs. Consequently, M.P.No.1 of 2015 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rkm

To

The Assistant Commissioner (CT),
Anna Salai Assessment Circle,
4th Floor, CT Annexe Building,
Greams Road, Chennai - 600 006.

+1 cc to Mr.N.Viswanathan Advocate sr.36780
+1 cc to the Special Government Pleader Taxes sr.36944

W.P.No.21242 of 2015

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