

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.22295 of 2015
and
M.P.No.1 of 2015

M/s. Sruthilaya Discs & Tapes
Represented by its Partner
No.87 CP Ramasamy Road
Alwarpet, Chennai-18.

[Petitioner]

Vs

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

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the Respondent in the impugned order in 33420821094/2012-13 dated 05.06.2015 quash the same.

For petitioner : Ms.Radikha Chandrasekhar

For respondent : Mr.S.Kanmani Annamalai AGP(T)

सत्यमेव जयते
O R D E R

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Addiitonal Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed challenging the correctness of the impugned order of assessment passed by the Assistant Commissioner(CT), Alwarpet Assessment Circle, in 33420821094/2012-13

dated 05.06.2015.

3. Learned counsel for the petitioner would submit that when pre- revision notice dated 28.04.2014 inviting detailed reply or objection was issued, the petitioner has filed a detailed objection on 25.06.2014, which was received by the respondent on 03.07.2014 and after receipt of the reply, the Assessing Officer has not even bothered to consider the well drafted reply, however, passed the impugned order on 05.06.2015, against the petitioner, causing huge prejudice. Therefore, the petitioner has come to this Court challenging the impugned order on the ground that the same was passed without application of mind and hence the same is liable to be set aside.

4. In support of the above contention, learned counsel for the petitioner has brought to the attention of the Court the date of receipt of the petitioner's reply dated 25.06.2014 by the respondent, having been acknowledged on 03.07.2014.

5. It is at this point of time, Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) appearing for the respondent fairly agreeing with the argument advanced by the learned counsel for the petitioner that the petitioner's reply dated 25.06.2014 having been acknowledged by the respondent on 03.07.2014, in all fairness, the Assessing Officer, ought to have adverted to the same, however, a reading of the impugned order shows that the Assessing Officer has not considered the reply received by him on 03.07.2014 and on this score, he requested this Court to remand the matter for fresh consideration on the basis of the detailed reply already received by the Assessing Officer on 03.07.2014.

6. A perusal of the impugned order reveals that while passing the same, the Assessing Officer has not even taken minimum care to consider whether the petitioner's reply is required to be gone into. This shows, a non application of mind and a clear violation of principles of natural justice. Hence, the impugned order is liable to be set aside.

7. In view of the same, recording the submission made by the learned Additional Government Pleader (Taxes) appearing for the respondent, this Court, while setting aside the impugned order dated 05.06.2015, remit the matter back to the Assessing Officer to consider the matter afresh on the basis of the reply of the petitioner dated 25.06.2014, which was received on 03.07.2014 and pass appropriate orders on merits and in accordance with law, after

giving an opportunity of personal hearing to the petitioner well in advance.

In the result, the writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

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

1 CC to M/s.K.Vaitheeswaran, Advocate SR.No. 37948

1 CC to the Spl. Government Pleader (Taxes), SR.No. 37973

W.P.No.22295 of 2015

RSK (CO)
PSI (10.08.2015)

सत्यमेव जयते

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