IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.02.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2402 of 2015

Madras Fertlizers Limited
Rep.by its Chief Manager
Corporate Accounts and Taxation
V.Chandramouli
Manali, Chennai - 600 068 .. Petitioner

.Vs.

The Assistant Commissioner (CT)
Manali Assessment Circle,
No.5/79, 5th Street,
Kodungaiyur,
Chennai - 600 118 ..Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent vide proceedings in TN.33951080052/2007-2008, dated 10.12.2014 and to quash the same and further direct the respondent to pass orders considering the detailed reply letter dated 28.11.2014 filed by the petitioner.

For Petitioner : Mr.T.R.Senthil Kumar

For Respondent : Mr.Manohar Sundaram
Addl.Govt.Pleader.

O R D E R

By consent, writ Petition is taken up for final disposal at the time of admission itself.

2. Heard, Mr.T.R.Senthilkumar, learned Counsel appearing for the petitioner and also Mr.Manohar Sundaram, learned Additional Government Pleader (Taxes), who has taken notice on behalf of the respondent.

3. The petitioner has come up with the present Writ Petition challenging the impugned order dated 10.12.2014 on the ground of violation of principles of natural justice and seeks to direct the respondent to pass orders after considering the detailed reply dated 28.11.2014 given by him.

4. The learned counsel for the petitioner contended that even though the petitioner has sent a reply dated 28.11.2014, the respondent has passed the impugned order without considering the said reply and without offording an opportunity of personal hearing as contemplated under law. Therefore, the impugned order is per se illegal and non est in the eye of law.

5. I have heard the learned Additional Government Pleader on the submission made by the learned counsel for the petitioner.

6. It is not in dispute that the petitioner has submitted a detailed reply as against the show cause notice dated 17.09.2014 as well as the order of first assessment dated 25.11.2014 relating to TNVAT for the year 2007-2008. But the respondent, without considering the said reply and without affording an opportunity of personal hearing to the petitioner, has straightaway passed the impugned order. Since personal hearing was not given by the authority, the impugned order is liable to be set aside. Accordingly, the impugned order is set aside and the matter is remitted to the Authority concerned, who shall hear the petitioner and pass orders on merits and in accordance with law by affording an opportunity to the petitioner to appear before the Authority apart from looking into the detailed reply dated 28.11.2014 as well as the other documents, if any.

7. The Petitioner is directed to appear before the Authority on 05.3.2015 and make his submissions both oral and written and also produce all the documents, if any, in support of his case and on receipt of the same, the authority shall pass orders on merits and in accordance with, after affording an opportunity of personal hearing on 05.03.2015 and also after taking into consideration the observation stated supra, within a period of four weeks thereafter.

8. In case the petitioner fails to avail the opportunity on 05.03.2015, it is open to the respondent to pass appropriate orders on merits and in accordance with law without being influenced by the earlier order passed by the Authority, which has been set aside by this Court in this Writ Petition.

Accordingly, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (Records)

/true copy/

Sub Asst. Registrar

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To

The Assistant Commissioner (CT)
Alandur Assessment Circle,
12, Vedagiri Street,
Alandur, Chennai 600 016

1 cc to Mr.T.P. Senthil Kumar, Advocate, Sr. 7106
1 cc to Special Government Pleader, Sr. (Taxes), Sr. 6471

W.P.No.2402 of 2015
and M.P.No.1 of 2015

MSM (CO)
kk 20/2