IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 27.04.2015

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. No. 9144 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s. Deccan Alloys Pvt. Ltd.,
Represented by its
Assistant General Manager
B. Gopala Krishnan .. Petitioner

Vs.

The Assistant Commissioner (CT)
Hosur (North) Assessment Circle,
Hosur - 635 109. .. Respondent

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus, calling for the records of the respondent in impugned assessment order dated 10.02.2015 in CST No. 448049/2013-14 relating to Assessment Year 2013-2014 and quash the same as illegal, arbitrary and against the express provisions contained in Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006 in so far as having failed to provide opportunity of personal hearing and consequently direct the respondent to grant a reasonable opportunity of being heard to the petitioner as contemplated under proviso to Section 22(4) of the TNVAT Act before passing a fresh assessment order in accordance with law and on merits and pass such further orders.

For petitioner : Mr.A.R.L. Sundaresan, Sr. Counsel
for M/s. R.S. Pandiyaraj
For respondent : Mr.A.N.R. Jayapratap, GA

O R D E R

This writ petition has been directed against the impugned order passed by the Assistant Commissioner (CT) Hosur (North), dated 10.02.2015, on the ground that the impugned order is erroneous and against the principles of natural justice, as no opportunity of personal hearing was afforded by the respondent in order to substantiate the claim of the petitioner in a proper manner as contemplated under Section 22(4) of the TN VAT Act 2006.

2. Mr. A.R.L. Sundaresan, learned Senior Counsel appearing for the petitioner would submit that when the Pre-Assessment Notice dated 03.12.2014 issued by the respondent, had only proposed for revising the ITC as per Section 19(5) (c) of the Act, the Assessing Officer without application of mind has passed the Assessment order making an addition under Section 19(12), 19(2) V and 19(4) to the tune of Rs.54,12,011/- which was neither proposed nor reckoned in the notice issued by the respondent on 03.12.2014. Therefore, on this score the impugned order is liable to be set aside, he pleaded.

3. Again assailing the impugned order, learned Senior counsel would submit that when a personal hearing has been contemplated under Section 22(4) of the TV VAT Act prior to the passing of any final orders, the respondent has not adhered to the express provisions of the Act. As a result, the cryptic order has been passed.

4. Mr. A.N.R. Jayapratap, learned Government Advocate taking notice for the respondent, fairly accepted that there has been huge discrepancies in the impugned order, as indicated by learned senior counsel without there being anything mentioned in the Pre-Assessment notice, the respondent had passed the order adding the tax liability, hence requested this Court to remand the matter back to the respondent, so that the Assessment Officer would be in a position to re-consider the case of the petitioner afresh on merits.

5. Recording his statement and keeping in mind that the Assessing Officer has not exercised his desk work properly, this Court set aside the impugned order and remand the matter back to the Assistant Commissioner (CT), Hosur (North) Assessment Circle, Hosur, the respondent herein, who shall issue notice to the petitioner and after giving an opportunity of personal hearing shall pass appropriate orders on merits and in accordance with law.

6. With the above direction, the Writ Petition is disposed of. Consequently, the connected the miscellaneous petitions are closed. There is no order as to costs.

avr

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT)
Hosur (North) Assessment Circle,
Hosur - 635 109.

+ 1 cc to Mr.R.S.Pandiaraj, Advocate SR 23061

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 23231

mp(co)
prk26/5

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