

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2016

CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.26426 of 2015
and
M.P.No.1 of 2015

Schneider Electric Infrastructure Ltd.,
rep. by its Assistant Manager, (Indirect Taxation)
C.Karikalan. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Anna Nagar Assessment Circle,
No.1B, Lakshmipuram 2nd Street,
New Avadi Road,
Villivakkam, Chennai - 600 049. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records, relating to the assessment order, in CST/1121044/2012-13, dated 16.06.2015, passed by the respondent, and to quash the same, as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondent : M/s.Vasudha Thiagarajan
Additional Government Pleader

सत्यमेव जयते

O R D E R

Heard Mr.Joseph Prabakar, learned counsel appearing for the petitioner, and M/s.Vasudha Thiagarajan, learned Additional Government Pleader for the respondent.

2. The petitioner, who is a registered dealer, under the provisions of the Central Sales Tax Act, 1956 (hereinafter, referred to as 'CST Act') as well as Tamil Nadu Value Added Tax Act, 2006 (hereinafter, referred to as 'TNVAT Act') has questioned the order of assessment passed under the CST Act, for the year 2012-13.

3. The only ground on which the impugned order is challenged, is by contending that, no notice was issued to the petitioner, and no opportunity was granted to them to submit their objection, and personal hearing was not afforded, in terms of Section 27 of the TNVAT Act. Though the counter affidavit filed by the respondent, does not specifically answer this point, the respondent seeks to justify the action, by making certain submissions on the merits of the assessment.

4. Order passed, without opportunity, is an illegal order and nullity, and requires to be set aside at the threshold. In the absence of any proof to show that show cause notice was issued to the petitioner before passing the impugned order, this Court is inclined to accept the stand taken by the petitioner, and hold that the impugned order has been in violation of principles of natural justice.

5. Accordingly, the Writ Petition is allowed, the impugned order is set aside, and the matter is remanded to the respondent for fresh consideration to be done in accordance with law after issuing a show cause notice, inviting objections and affording opportunity of personal hearing. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sd

To

The Assistant Commissioner (CT)
Anna Nagar Assessment Circle,
No.1B, Lakshmipuram 2nd Street,
New Avadi Road,
Villivakkam, Chennai - 600 049.

+lcc to Mr.Joseph Prabakar, Advocate, S.R.No.48872
+lcc to the Special Government Pleader(T), S.R.No.48950

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PPA(CO)
CA(19/09/2016)