IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20257 of 2016
&
W.M.P.No.17422 of 2016

M/s.TMTE Metal Tech Private Limited
represented by its Managing Director
No.25-A/2, Dairy Road, North Phase
SIDCO Industrial Estate, Ambattur
Chennai - 600 098 .. Petitioner

Vs.

The Assistant Commissioner [CT]
Annanagar Assessment Circle
No.1-B, Lakshmipuram Second Street
New Avadi Road
Villivakkam
Chennai - 600 049 .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus calling for the records of the respondent in Assessment Order in CST 893688/2014-15 dated 24.05.2016 and quash the same as illegal and unconstitutional and also to direct the respondent to pass fresh assessment orders after affording a personal opportunity to address the issues left uncovered in the notice by issuing fresh notice of assessment.

For Petitioner : Mr.A.Ravichandran

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

Heard Mr.A.Ravichandran, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader accepting notice on behalf of the respondent. With the consent of the learned counsel appearing on either side, the writ petition itself is taken up for final disposal.

2.The petitioner, who is a dealer registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act and Central Sales Tax Act, has challenged the Assessment Order for the year 2014-2015. The only ground of challenge is that the respondent without affording an opportunity to the petitioner has enhanced the turnover. In order to establish the same, the learned counsel for the petitioner referred to the notice dated 29.02.2016, where the proposed turn over was to be determined for the year 2014-15 at Rs.17,98,79,006/-. After the petitioner submitted his documents, the respondent in the impugned Assessment Order has enhanced the turnover as Rs.18,20,94,876/-. Admittedly, the respondent did not issue any notice before such revision of the total turnover. Therefore, the impugned proceedings has been passed in violation of the principles of natural justice.

3. Therefore, there will be a direction to the petitioner to treat the impugned Assessment Order as show-cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this order. Thereafter, the respondent shall afford an opportunity of personal hearing to the petitioner and consider the documents that the petitioner may produce and pass a speaking order. As this Court has directed the impugned Assessment Order to be treated as a show-cause notice, the question of demanding tax or penalty pursuant to the same does not arise and it shall abide by the fresh orders to be passed by the respondent in terms of the above direction.

The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gpa

To

The Assistant Commissioner [CT]
Annanagar Assessment Circle
No.1-B, Lakshmipuram Second Street
New Avadi Road
Villivakkam
Chennai – 600 049

+1cc to Mr.A. Ravichandran, Advocate, S.R.No.33212
+1cc to the Special Government Pleader, S.R.No.33541

SV(CO)
EU(24/06/2016)

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