IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.40345 of 2015
and MP No.1 of 2015

Dhar Coal Products (P) Limited
Rep. by its Authorised Signatory-cum-Manager Shri.Arun Parakh,
No.14, Krishnappa Street,
Purasawalkam
Chennai - 600 084. .. Petitioner

vs.

The Assistant Commissioner (CT),
Purasawalkam Assessment Circle,
Chennai. .. Respondent

* * *

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records on the files of the respondent in CST.No.822641/13-14, dated 14.10.2015, and quash the same as being contrary to the principles of natural justice, without jurisdiction and authority of law.

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For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Seeking to quash the proceedings of the respondent dated 14.10.2015, the petitioner is before this Court.

2. According to the petitioner, they are importing and exporting steam coal from Switzerland and Singapore and during such course, they are effecting high seas sales, which is exempted under Section 5(2) of the Central Sales Act Act, 1956. When they claimed exemption, the same was negatived by the respondent on the ground that the petitioner failed to produce any of the required documents to support their claim and the respondent passed the impugned order assessing the balance tax at

Rs.2,77,92,196/-, which is challenged in this writ petition.

3. The learned counsel for the petitioner submitted that the claim of the petitioner is in accordance with law, but the respondent without affording any opportunity to the petitioner to place the documents, as required by the respondent, passed the impugned order, which is hit by the principles of natural justice. It is submitted that if an opportunity was given to the petitioner to produce the documents, they could have very well placed the documents. Hence, the learned counsel seeks appropriate orders.

4. The learned Additional Government Pleader submitted that upon receipt of notice dated 23.09.2015 relating to the Assessment Year 2013-14, the petitioner failed to submit any reply and hence, having no other way, the Assessing Authority passed the order dated 14.10.2015 and the same does not call for interference from this Court. However, the Additional Government Pleader submitted that the petitioner may be directed to submit necessary documents to the respondent within a time frame stipulated by this Court.

5. Admittedly, the impugned order is challenged on the ground of violation of principles of natural justice. Without any opportunity for producing the books and documents, the impugned order came to be passed. Hence, on this ground alone, the impugned order is liable to be quashed and accordingly, the same is quashed. The petitioner is directed to submit all the required documents relating to the Assessment Year 2013-14 before the respondent within a period of two weeks from the date of receipt of a copy of this order. The petitioner is also permitted to file additional reply, if any, at the time of submitting the documents. On receipt of the documents and additional reply, if any, the respondent shall proceed with the assessment and pass orders on merits and in accordance with law. The said exercise shall be completed by the respondent within a period of six weeks.

This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (CT),
Purasawalkam Assessment Circle,
Chennai.

+ 2 ccs to Spl.Govt.Pleader (Taxes) High Court, Madras SR 2211 & 2210

+ 1 cc to Mr.R.Senniappan, Advocate SR 2086

ca(co)
prk18/1

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