IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.22599 of 2016 and WMP.No.19279 of 2016

Tvl.Chamundi Steel Casting (I)
Ltd., rep.by its Director, Hosur ...Petitioner

Vs

The Assistant Commissioner (CT),
Hosur (South). ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the order of the respondent dated 26.5.2016 in TIN/33423360959/2014-15 and quash the same.

For Petitioner : Mr.Aditya Reddy

For Respondent : Mr.S.Manohar Sundaram, AGP

ORDER

Mr.S.Manohar Sundaram, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging the order of assessment dated 26.5.2016 for the year 2014-15.

3. A pre-assessment notice was issued to the petitioner dated 16.9.2015 alleging that they had effected import purchase during 2014-15 and when the return was downloaded and scrutinized, it was noticed that the petitioner concealed the import purchase and the disposal of the imported goods could not be ascertained due to filing of NIL return for the relevant

year. The respondent further stated that the petitioner disposed the imported goods without any reporting and thereby evaded tax. Accordingly, there was a proposal tax on the imported goods adding all the direct expenses and gross profit at 15%.

4. The petitioner submitted a detailed reply on 14.10.2015 stating that during the financial year 2014-15, they had closed all operations at factory and handed over possession to a new company namely M/s.Laxmi Rolling and Strips Private Limited, that there was no sales/purchase, production dispatches or any activities in the full year and that they filed monthly returns as NIL only. They had further stated that the excise duty licence was surrendered and canceled and by including a copy of the same, the petitioner stated that they could not have imported and cleared the goods from the Customs at Chennai.

5. One more reply was given by the petitioner on 28.3.2016, which was in pursuance of another notice issued by the respondent dated 30.12.2015 wherein they reiterated the said stand and also furnished further details. However, while completing the assessment, the respondent made a finding that the contention of the petitioner regarding import purchase is rejected, since the import of goods were made in their import code and PAN.

6. The learned counsel for the petitioner, in turn, states that the respondent has not afforded any opportunity to the petitioner nor provided any information as to how he has come to the conclusion that the imports were made in the petitioner's import code and PAN. Therefore, it is further submitted that the impugned order is in violation of the principles of natural justice.

7. After hearing the parties and perusing the material records, it is evidently clear that this finding rendered by the respondent to come to a conclusion that import has been effected, is not supported by any document nor the petitioner was furnished with any details. Hence, to enable the respondent to furnish all the details, the matter requires to be remitted back to the respondent.

8. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remitted to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, furnish the basis on which, he has come to the conclusion that the goods were imported by the petitioner and if there is any document available with him, the same shall be furnished to the petitioner. Thereafter, the petitioner can permitted to give

their objections. On receipt of the objections from the petitioner, the respondent shall proceed to complete the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT), Hosur (South).

+1cc to Special Government Pleader, S.R.No.37430

SKV(CO)
EU(2107/2016)

WP.No.22599 of 2016&
WMP.No.19279 of 2016