IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.26627 of 2016
and
W.M.P.No.22821 of 2016

M/s.Vistara Iron and Steel Enterprises,
rep.by its Managing Partner,
Mr.Sheik Mohammed Nizar
No.42-B, Canal Road,
Kilpauk,
Chennai-600 010 ... Petitioner

vs.

The Assistant Commissioner(CT),
Kilpauk Assessment Circle,
No.57, 59 and 61 and 63, VII Floor,
Taylors Road, Kilpauk,
Chennai-600 010 ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records of the respondent in TIN 33986259302/2014-15 and quash the impugned order dated 31.03.2016 and further direct the respondent to grant a reasonable opportunity including personal hearing to the petitioner before implementing the order of the Revisional Authority in RP No.45 of 2015.

For Petitioner : Mr.V.Sundareswaran
For Respondent :Mr.Manokaran Sundaram,A.G.P.

ORDER

Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Standing Counsel appearing for the respondent and with the consent of either parties, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Act, 2006, on the file of the Assistant Commissioner(CT), Kilpauk Assessment Circle. In this writ petition, the petitioner challenges the provisional assessment order passed by the respondent for part of the year 2014-15.

3. From the record of proceedings, it is seen that the petitioner has approached the revisional authority twice and two orders have been passed by the Revisional authority in R.P.No.39 of 2015, dated 19.08.2015 and R.P.No.45 of 2015, dated 26.10.2016. The petitioner, though obtained an order in R.P.No.39 of 2015, wherein the Revisional authority remanded the matter to the assessing officer, they did not bring it to the notice of the assessing officer while giving the reply, dated 10.09.2015, to the revision notice dated 20.08.2015.

4. The contention of the petitioner is that during the physical hearing it was orally informed to the assessing officer. However, this Court is not inclined to believe the said contention and would reject the same as an after thought. Nevertheless the assessing officer, while completing the assessment has given effect to the order passed by the Revisional authority, wherein he directed to provide relief for a particular amount, after obtaining tax relaxation details from the Assistant Commissioner (CT), Royapuram Assessment Circle, in respect of the balance disputed levy. The petitioner, while accepting that the assessing authority has provided relief, as directed by the revisional authority, would state that the assessing authority did not verify the other dealers from the Royapuram Assessment Circle. However, as pointed out by the learned Additional Government Pleader, the impugned order is only provisional assessment order and the petitioner has been dragging on the matter by filing revision petitions etc.

5. In the light of the above, this Court is of the view that the respondent should be directed to pass fresh order of assessment for the whole year. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted to the respondent to re-do the assessment for the whole year 2014-15, by issuing a show cause notice to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner(CT),
Kilpauk Assessment Circle,
No.57, 59 and 61 and 63, VII Floor,
Taylors Road, Kilpauk,
Chennai-600 010

+1 cc to mr.V.Sundareswaran,advocate,sr.43216

+1 cc to Spl.Govt.Pleader,sr.43236.

gj(co)
krd 22/8