IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29156 of 2016
&
WMP.No.25206 of 2016

Tvl.Edge Steel P Ltd.,
Rep. By its Managing Director
Mr.Rajkumar Modi,
No.604/8, Nagammal Thottam,
Fairlands East,
Polimer Channel Backside,
Salem – 7. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Salem Town (North) Circle,
Salem. ... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of certiorari to call for the records on the files of the respondent in TIN.33196287333/2015-16, dated 14.06.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Ms.Vasudha Thiagarajan

ORDER

Heard Mr.R.Senniappan, learned counsel for the petitioner and Ms.Vasudha Thiagarajan, learned Additional Government Pleader, who accepts notice for the respondent and with their consent, the writ petition itself is taken up for disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TN VAT Act).

3. In this writ petition, the petitioner has challenged the order of assessment for the year 2015-2016. In fact, the respondent has completed the assessment and passed the order in respect of the same assessment year on 04.05.2016, without

considering the petitioner's reply dated 25.04.2016 to the pre-notice dated 23.03.2016. On receipt of the order dated 04.05.2016, the petitioner appears to have approached the respondent and informed her that their objections were not considered and they have also given further reply on 12.05.2016. The respondent thought fit to redo the assessment suo-motu and passed the impugned order. If the respondent has decided to redo the assessment, she ought not to have referred any of the observations made in the earlier order dated 04.05.2016 and matter has to be redone in its entirety. Even assuming an opportunity of personal hearing was granted while passing the earlier order dated 04.05.2016, while redoing assessment, fresh opportunity of personal hearing should have been granted, however, such procedure was not adopted and therefore, the finding recorded by the respondent to the objection No.6 is incorrect.

4. That apart, the Court notices that certain findings are verbatim repetition of the findings rendered in the order dated 04.05.2016. The manner in which the respondent has completed the assessment is incorrect and it is in total violation of the principles of natural justice.

5. Accordingly, the writ petition is allowed and the impugned assessment order is set aside and the matter is remitted back to the respondent for fresh consideration, who shall afford an opportunity of personal hearing and redo the assessment in accordance with law uninfluenced by any of the findings recorded in the orders dated 04.05.2016 and 14.06.2016. No Costs. WMP.No.25206 of 2016 is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Salem Town (North) Circle,
Salem.

+1 cc to Mr.R.Senniappan, advocate,sr.48715

+1 cc to Spl.Govt.Pleader,sr.48949

+1 cc to M/s.M.Elango, advocate,sr.46843

rsi(co)
krd 10/9

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