IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.09.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.30572 of 2016
and WMP.No.26512 of 2016

Tvl.Chamundi Steel Casting (I) Ltd.,
Represented by its Director,
Sl.No.146/2A, Kalukondapalli Village,
Denkanikottai,
Tamil Nadu. .. Petitioner

Vs

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

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records of the order of the respondent in order dated 09.11.2015 in CST No.446320/2012-13 and quash the same.

For Petitioner : Mr.Adithya Reddy

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

O R D E R

Heard Mr.Adhithya Reddy, learned counsel appearing for the petitioner. Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice for the respondent. With the consent of either side, the writ petition is taken up for disposal.

2.The petitioner challenges an order of assessment dated 09.11.2015 under the provisions of the Central Sales Tax, 1956 (hereinafter referred to as the CST Act) for the assessment year 2012-13. On perusal of the impugned proceedings it is not clear as to whether this is a deemed assessment or otherwise. However, the preamble of the order states that the order is subject to random selection for detailed scrutiny under Section

22(1) of the Tamil Nadu General Sales Tax Act, 1959 r/w. Section 9(2) of the CST Act, 1956. If according to the respondent during the random selection and scrutiny certain mistakes were found, then without forwarding an opportunity to the dealer the respondent cannot proceed unilaterally and pass an order as done in the instant case. On receipt of the order, the petitioner has immediately submitted their objections on 29.12.2015 and this has been received by the respondent on 31.12.2015 as could be seen from the postal acknowledgment card. But, till date the respondent has not afforded an opportunity to the petitioner. Hence, the present writ petition has been filed.

3.In the light of the above, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this order, after which, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law. Since this Court has directed the impugned proceedings to be treated as a show cause notice, the question of demanding the tax and penalty or making any adjustment from the input tax credit availed by the petitioner does not arise and the entire proceedings should be kept in abeyance and shall abide by the fresh notice to be issued in terms of the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

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

+1cc to the Special Government Pleader Sr.50154
+1cc to Mr.Adithyareddy, Advocate SR.49745

WP.No.30572 of 2016
and WMP.No.26512 of 2016

scd[co]
srg 22/09/2016