IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.41023 of 2016
&
W.M.P.No.35032 of 2016

Alstom Transport India Limited,
Represented by Tax Manager,
M.Arun Prasad,
SF No.41/1 B1 and 41/2-A,
Kangeyampalayam Village,
Sulur Taluk,
Coimbatore-641 401. ... Petitioner

Versus

The Commercial Tax Officer,
Palladam Assessment Circle,
Palladam,
Coimbatore. ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records on the files of the respondent herein in CST No.753087/2013-14, dated 24.10.2016 and quash the same.

For Petitioner : Mr.N.Sripraka sh

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.N.Sriprakash, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of respondent. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for disposal.

2. The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as the "TNVAT Act") and Central Sales Tax Act, 1956 (hereinafter referred to as the "CST Act"), has filed this Writ Petition, challenging the order of assessment passed under the CST Act for the year 2013-2014, dated 24.10.2016.

3. The impugned order is required to be interfered with for more than one reason. Firstly, after the notice dated 10.08.2015, the petitioner has sent a reply on 20.08.2015, which has been acknowledged by the Office of the respondent in the letter deliver book. Thereafter, the petitioner has sent another representation on 22.12.2015 to the respondent, regarding submission of the bank realization certificate documents for export sales, which has also been acknowledged in the letter delivery book. It is thereafter, the show-cause notice dated 22.09.2016 has been issued without even reference to the earlier show-cause notice and replies, dated 20.08.2015 and 22.12.2015. This has ultimately resulted in the impugned order, wherein reference has been made to the show cause notice dated 10.08.2015. But conveniently, the replies dated 20.08.2015 and 22.12.2015 have not been taken note of. This is sufficient to hold that the impugned order is in violation of principles of natural justice.

4. Accordingly, the Writ Petition is allowed and the impugned order is set-aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, consider the objections filed as well as the Form 'WW' and redo the assessment in accordance with law. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

r n s

To

The Commercial Tax Officer,
Palladam Assessment Circle,
Palladam,
Coimbatore.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.70384
+1cc to the Special Government Pleader(T), S.R.No.70724

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NM I(CO)
CA(05/12/2016)