IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.7162 of 2017
and
WMP.Nos. 7779 and 7780 of 2017

M/s. Vector Projects (India)Pvt., Ltd.,
Rep.by its Senior Manager,
P.N. Balasubramanyan,
Brownest, G7 Ground Floor,
38, 2nd Main Road,
Gandhi Nagar, Adyar,
Chennai - 600 020. ...Petitioner

Vs.

1. The Assistant Commissioner (CT)
Kotturpuram Assessment Circle,
Chennai - 600 028.

2. The Deputy Commercial Tax Officer,
Ranipet (IN) Check Post,
Serkadu. ...Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent in Compounding Order in Form No. 46, dated 10.02.2016, culminating in the consequential recovery notice Na.Ka.213/2014/A3, dated 07.02.2017 issued by the 1st respondent herein and quash the order dated 10.2.2016 issued by the 2nd respondent culminating in the consequential recovery notice dated 07.02.2017 issued by the 1st respondent.

For Petitioner : M/s.Hemamuralikrishnan

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

The petitioner is aggrieved by the compounding order dated 10.02.2016 and the consequential recovery notice dated 07.02.2017.

2. Heard both sides.

3. The grievance of the petitioner in this writ petition is that the impugned compounding order dated 10.02.2016 was passed in violation of principles of natural justice and with non-application of mind, since the second respondent has not considered the objections raised by the petitioner on 12.10.2012 as against the goods detention notice dated 05.10.2012.

4. It is seen that this petitioner earlier approached this Court and filed WP.No.27199 of 2012, challenging the goods detention notice dated 02.10.2012. It is further seen that this Court by an order dated 05.10.2012, directed the respondent to release the goods on payment of tax demanded, subject to the final adjudication order to be passed by the authority concerned. It is stated that the petitioner has paid such tax and got the goods released. At the same time, the petitioner has also made objections in writing on 12.10.2012 and served the same on the second respondent on the very same day.

5. The learned Government Advocate, based on verification of the file, submitted that such objections dated 12.10.2012 were received by the second respondent on the very same day.

6. However, the fact remains that the impugned compounding order was passed after four years without refering to the said objections filed by the petitioner. Thus the second respondent proceeded to pass the said order, as if the petitioner has not chosen to file any objections. Therefore, as rightly pointed out by the learned counsel for the petitioner, the impugned compounding order cannot be sustained, as it is an outcome of violation of the principles of natural justice as well as non-application of mind. Therefore, consequential impugned recovery notice also cannot be sustained.

7. Accordingly, this writ petition is allowed and the impugned proceedings are set aside. Consequently, the matter is remitted back to the second respondent to pass fresh orders on merits and in accordance with law, after considering the objections raised by the petitioner already. Such exercise shall be done by the second respondent within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Assistant Commissioner (CT)
   Kotturpuram Assessment Circle,
   Chennai - 600 028.

2. The Deputy Commercial Tax Officer,
   Ranipet (IN) Check Post,
   Serkadu.

+1cc Special Government Pleader in sr.no.41497
+1cc M/s.L.MuraliKrishnan, Advocate in sr.no.41605

W.P.No.7162 of 2017

RR(CO)
NR 23/06/2017