

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.10342 of 2017

and

WMP No.11271 of 2017

Tvl. Chamundi Steel Castings (I) Ltd.
Represented by its Director
Sy.No.145/2, Kalukondapalli Village
Denkanikottai,
Tamilnadu.

...Petitioner

Vs.

The Assistant Commissioner (CT)
Hosur - South.

...Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in order in VAT 33423360959/2010-2011 dated 30.01.2017 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

The petitioner is aggrieved by the order of assessment dated 30.01.2017 passed in respect of the assessment Year 2010-2011.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. The only grievance of the petitioner before this Court is that the impugned assessment order was passed in violation of principles of natural justice, as the petitioner was not put on notice of proposal before passing the said order.

4. The learned Government Advocate for the respondent submitted that the notice of proposal dated 30.11.2016 sent to the petitioner by post was returned with an endorsement "Left".

Therefore, he submitted that the petitioner cannot contend that the Assessing Officer has not issued the notice of proposal.

5. Upon hearing both sides and perusing the impugned proceedings, it is evident that the notice of proposal sent to the petitioner was not at all served on them. Admittedly, the said notice returned unserved with an endorsement "Left" . However, the Assessing Officer has passed the order of assessment by proceeding to conclude as if the petitioner has not filed any objection, even though a notice was issued to them calling upon them to file their objections. It is needless to say that when the notice was not served on the petitioner, they cannot be expected to file their objections. Therefore, the impugned order of assessment passed without hearing the petitioner cannot be sustained, as it violates the principles of natural justice. Consequently, the matter has to go back to the Assessing Officer for re-doing the assessment, after hearing the petitioner.

6. Accordingly, this writ petition is allowed and the impugned order is set aside. The petitioner as well as the respondent are directed to treat the impugned order as the notice of proposal and consequently the objections, if any, to the said proposal shall be filed by the petitioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of such objections the Assessing officer shall pass fresh order of assessment, after giving due personal hearing to the petitioner, within a period of four weeks thereafter. No costs. Consequently the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

mk
To

The Assistant Commissioner (CT)

Hosur - South.

+1 CC to Mr. Adithya Reddy, Advocate sr 41362

+1 Cc to Spl. Govt. Pleader sr 41494

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RR (CO)
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