IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.7750 of 2017 & W.M.P.No.8479 of 2017

M/s. I.P.Rings Limited,
Rep. by its Chief Financial Officer,
R.Venkataraman,
24/51, College Road,
Chennai-600 006. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
88, Mayor Ramanathan Salai,
Chennai-600 031. ... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in CST/59344/2014-15 and quash the order dated 22.02.2017 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mrs.Narmadha Sampath, Special Government Pleader

O R D E R

Heard Mr.B.Raveendran, learned Counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader for the respondent. With consent on either side, this writ petition is taken up for final disposal.

2.The petitioner is aggrieved by the impugned order dated 22.07.2017, which is an assessment order passed under the provisions of the Central Sales Tax Act, 1956 (in short “CST Act”) for the year 2014-15.

3.Though the learned counsel for the petitioner raised various factual contentions and submitted that in the assessee's own case for the earlier assessment years i.e. 2009-10 to 2011-12, the case has been decided in his favour. This Court does not propose to go into the said aspect as it is evident that there has been violation of principles of natural justice in passing the impugned assessment order. The respondent issued a notice dated 14.10.2015, proposing to reverse input tax credit under various provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short “TNVAT Act”) read with Section 9(2) of the CST Act. There is nothing on record to show that the petitioner filed objections to the notice dated 14.10.2015. In the affidavit filed in support of the writ petition, the petitioner has taken a stand that the authorized representative of the petitioner personally met the respondent in the office of the respondent and requested time for filing requisite declarations. However, this is a very vague averment as the petitioner has not set out as to on which date their authorized representative had gone to the office of the respondent. Taking note of the fact that the petitioner is a limited company and such vague stand has to be out rightly rejected.

4.Be that as it may, it appears that there was a change of assessing officer and the present incumbent has passed orders. However, taking note of the fact of that there was a long gap of 19 months between the issuance of notice dated 14.10.2015 and passing of the impugned order, in the fitness of things, the respondent should have issuee notice to the petitioner before proceeding further. Therefore, only on that ground, this Court is of the view, that an opportunity can be afforded to the petitioner to go before the assessing officer. However, for such reason, this Court is not inclined to set aside the impugned order, but would direct the petitioner to treat the same as show cause notice and submit their objections.

5.In the light of the above, there will be a direction to the petitioner to treat the impugned assessment order dated 22.02.2017 as a show cause notice with further direction to submit their objections within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the authorized representative of the petitioner and re-do the assessment in accordance with law. It is open to the petitioner to raise all factual issues including production of declaration forms and records etc. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/true copy/

Sub Assistant Registrar

abr

To

The Assistant Commissioner (CT),
Nungambakkam Assessment Circle,
88, Mayor Ramanathan Salai,
Chennai-600 031.

1 cc to Mr.B.Raveendran, Advocate, sr. 68555

W.P.No.7750 of 2017

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