IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.8751 of 2017
and
W.M.P.Nos.9599 & 9718 of 2017

M/s.Alkraft Thermo Technologies Pvt. Ltd
Rep by its General Manager - Finance,
P.Sriajudeen,
35A & B/1, Ambattur Industrial Estate,
Chennai - 600 058. ...Petitioner

Vs.

The Assistant Commissioner (CT)
Pattaravakkam Assessment Circle
No.127, 2nd Floor, Yadhaval Street, Padi.
Chennai - 600 050. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, for issue a Writ of Certiorarified Mandamus, to call for the records of the respondent's impugned order dated 13.03.2017 bearing Ref.No. TIN : 33071321193/2014-2015 for the assessment year 2014-2015 and quash the same and consequently direct the respondent to pass a fresh order for the assessment year 2014-15 under TNVAT ACT, 2006 based on the petitioner's reply dated 12.03.2017.

For Petitioner: Mr.C.Saravanan

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

The petitioner is aggrieved by the order of assessment dated 13.03.2017 passed in respect of assessment year 2014-15.

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

3. The only contention raised before this Court challenging the order of assessment is that the same came to be passed in violation of principles of natural justice. It is stated that the petitioner on receipt of the notice of proposal sent a communication on 06.02.2017 to the respondent seeking for one month's time to prepare suitable reply and the said communication was not responded by the respondent. It is further stated that the petitioner thereafter filed a detailed objections on 13.03.2017 and however, on the very same day the Assessing Officer has passed the impugned order of assessment without referring to the objections made by the petitioner and giving them an opportunity of personal hearing.

4. The learned Government Advocate, based on instructions, submitted that it is true that the petitioner made their objections on 13.03.2017, by filing the same at the Tapal section of the respondent's office and therefore the respondent without having the knowledge of such filing has passed the impugned order on the very same day.

5. Considering the above stated facts and circumstances and the admitted position that the petitioner has already filed their objections on 13.03.2017 itself and further, considering the fact that the same was not considered and that the petitioner was not given an opportunity of personal hearing as well, this Court is of the view that the petitioner should be given one more opportunity to contest their objections by way of personal hearing. It is also to be noted at this juncture that at the earliest point of time, the petitioner has sent a communication on 06.02.2017 seeking for one month's time for filing reply. Admittedly the Assessing officer has not responded to the said request by sending any communication to the petitioner. Therefore, the petitioner cannot be found fault with in not making the reply before the order of assessment, even though the fact remains that such reply was filed on the date of order of assessment.

6. Considering all these aspects, this writ petition is allowed and the impugned order is set aside. Consequently the matter is remitted back to the Assessing Officer to re-do the assessment, after considering the objections already filed by the petitioner and also after affording an opportunity of personal hearing. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (CT)
Pattaravakkam Assessment Circle
No.127, 2nd Floor, Yadhaval Street, Padi.
Chennai - 600 050.

+1cc to Mr.C.Saravanan, Advocate, S.R.No.41058
+1cc to the Government Pleader, S.R.No.41183

W.P.No.8751 of 2017

GJ(CO)
RS(21/06/2017)