IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.8880 of 2017
and
W.M.P.Nos.9787 and 9788 of 2017

M/s.Lakshmi Ganapathy Lathe &
Engineering Works Rep.by its Proprietor,
Mr.P.Chandrasekar,
No.67, Kumbakonam Road, Panruti. ...Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
   Panruti (Town), Panruti.

2. The Joint Commissioner (CT),
   Vellore.

3. The Deputy Commissioner (CT),
   Cuddalore. ...Respondents

Prayer: This writ petition is filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the first respondent in TIN.33876269305/2015-16 dated 15/07/2016, quash the same and direct the first respondent to re-do the assessment by passing a speaking order after giving an reasonable opportunity of being heard and pass such further order

For petitioner : V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

O R D E R

Mr.S.Kanmani Annamalai, takes notice for the respondents and by consent, the main writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved against the order of assessment dated 15.07.2016 passed in respect of the assessment year 2015-16. The main contention of the petitioner in this writ petition is that they were not given an opportunity of personal hearing as provided under Section 22(4) of the Tamil Nadu Value Added Tax, Rules 2007, before passing the order of assessment.

3. The learned Additional Government Pleader though submitted that the objections filed by the petitioner were considered before passing the order of assessment, he is, however, fair enough to admit the position that the petitioner was not given any personal hearing.

4. Heard both sides.

5. The order impugned in this writ petition was passed in respect of assessment in the year 2015-16. Before passing such an order, the assessing authority issued a proposal notice dated 30.05.2016 to the petitioner. A perusal of the said notice would show that the Assessing Officer has not indicated about the entitlement of the petitioner to have the personal hearing. Except calling for the explanation from the petitioner within a period of 15 days from the date of receipt of a copy of the said notice, the respondent has not stated as to whether personal hearing would be provided to the petitioner or not. A perusal of the order of assessment also would show that no such personal hearing was given to the petitioner. Even the objections raised by the petitioner were rejected by a single line observation/finding stating that the contentions raised by the petitioner is verified and found not acceptable. I do not think that such way of passing the order adopted by the Assessing Officer is permissible in the absence of any specific finding with discussions on the objections raised by the petitioner. At any event, as the petitioner was not provided with an opportunity of personal hearing, I am of the view that the matter needs to go back to the Assessing Authority to re-do the assessment once again, after giving due opportunity of personal hearing to the petitioner.

6. Accordingly, the writ petition is allowed and the impugned order of assessment is set aside. Consequently, the matter is remitted back to the 1st respondent for redoing the assessment once again after giving due opportunity of personal hearing to the petitioner. Such exercise shall be done by the respondent within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court is not expressing any view on the merits of the claim made by the petitioner or the Assessing Officer as this writ petition

is allowed only on the ground of violation of principles of natural justice. No costs. Consequently, connected miscellaneous petitions are closed.

vsi/maya

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Assistant Registrar

//True copy//

Sub Assistant Registrar

To
1. The Deputy Commercial Tax Officer,
Panruti (Town), Panruti.

2. The Joint Commissioner (CT),
Vellore.

3. The Deputy Commissioner (CT),
Cuddalore.

C.C. to MR.V.SUNDARESWARAN Advocate SR.NO.22321/17

C.C. to The Special Government Pleader High Court, Chennai -104 SR.NO.22350/17

W.P.No.8880 of 2017

SJ (CO)
VS 20.04.2017