IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.24658 of 2017
and
W.M.P.No.26019 of 2017

Tvl. Chamundi Steel Casting (I) Ltd.,
Represented by its Director,Hosur. ... Petitioner

vs

The Assistant Commissioner (CT)
Hosur (South). ... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the order of the Respondent dated 04.08.2017 in TIN/33423360959/2014-15 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.K.Venkatesh, GA

O R D E R

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. With the consent on either side, this writ petition itself is taken up for disposal.

2. The petitioner is aggrieved by an order of assessment passed by the respondent under the provisions of Tamilnadu Value Added Tax Act, 2006 for the year 2014 - 2015.

3. Earlier, the petitioner has approached this Court and filed W.P.No.22599 of 2016 challenging the assessment order dated 26.05.2016 for the very same assessment year, wherein the petitioner's case was that they have not effected any imports as

alleged by the respondent in the revision notice and without furnishing any details, the assessment order was passed. This Court, after hearing both parties, allowed the said writ petition by order dated 30.06.2016. While remanding the matter for fresh consideration to the respondent, a specific direction was issued to the respondent to afford an opportunity of the personal hearing to the petitioner, furnish the basis, on which, the respondent had come to the conclusion that the goods were imported by the petitioner and if there had been any document available with the respondent, the same should be furnished to the petitioner. Thereafter, the petitioner was permitted to submit their objections.

4. Pursuant to that, the respondent issued a notice dated 28.04.2017 directing the petitioner to appear for a personal hearing on 10.05.2017. The petitioner requested for an adjournment by their representation dated 06.05.2017. Subsequently, by another representation dated 27.05.2017, the petitioner pointed out that their Senior Staff appear before the respondent on 26.05.2017 for getting the details, on which, the proposed notice was issued to them, but no details were furnished. Therefore, the petitioner requested that necessary details may be furnished to enable them to give an effective objection. This representation dated 27.05.2017 was sent by Speed post on the same day.

5. The respondent, by notice dated 31.07.2017, fixed the personal hearing on 10.08.2017 at 11.00 A.M. However, the impugned assessment order was passed on 04.08.2017 well before the date fixed for the personal hearing. This is sufficient to hold that there has been a total violation of the principles of natural justice, as the petitioner did not gave an opportunity to put forth their submissions.

6. Further, while allowing the W.P.No.22599 of 2016 by order dated 30.06.2016, this Court specifically issued a direction to the respondent to furnish the particulars and if there is any document available, the same should be furnished to the petitioner. However, this direction has not been complied with by the respondent as could be seen in the impugned order, as the respondent was under the impression that the matter has been merely remanded for fresh consideration without taking note of the direction given to the respondent to furnish details/documents. Hence, for the above reasons the impugned order is held to be bad in law.

7. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to furnish the documents available with him, based on which, he came to the conclusion that there has been import purchase omission. After obtaining the details/documents, the petitioner is given two weeks' time to submit their objections. After the objections are received, the respondent shall fix a date for personal hearing and re-do the assessment in accordance with law. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rna

To

The Assistant Commissioner (CT), Hosur (South).

+ 1 cc to Mr. Adithya Reddy, Advocate SR.66856
+ 1 cc to Special Government Pleader SR.66925

W.P No.24658 of 2017
and W.M.P.No26019 of 2017

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