IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.14771 of 2017
and
WMP.Nos. 16013 & 16014 of 2017

M/s. Trichy Steel Corporation,
Represented, by its Managing Partner
H. Syed Ibrahim,
No.1414, KNK Road, Erode 638 003,
Erode District. ... Petitioner

Vs.

The Commercial Tax Officer,
Park Road Assessment Circle,
Brough Road,
Erode - 638 001, Erode District. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in of the respondent made in TIN No.33812860952/2014-15 dated 18.05.2017 insofar as levying penalty under section 22(5) TNVAT Act, 2006 is concerned and quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) takes notice on behalf of the respondent. By consent of the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of revision of assessment dated 18.05.2017 passed in respect of the assessment year 2014-2015.

3. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader (Tax) appearing for the respondent.

4. The only challenge made in this writ petition is against the imposition of equal addition of tax and penalty on the ground that the Assessing Officer is not entitled to impose equal addition of tax, when the petitioner has already paid the one time tax and further on the ground that the imposition of penalty was done without affording personal hearing to the petitioner.

5. The learned Additional Government pleader (tax) appearing for the respondent is not disputing the fact that the petitioner was not afforded with personal hearing, before passing the impugned order of assessment. Therefore, he fairly submitted that the matter may be remitted back to the Assessing Officer for re-considering the issue and pass fresh order of assessment, after affording personal hearing to the petitioner.

6. Considering the above stated facts and circumstances and considering the admitted position that the petitioner was not given personal hearing before passing the order of assessment and further considering the fact that the Assessing Officer has imposed equal addition of tax and penalty without hearing the petitioner in person, I am of the view, that the matter has to go back to the Assessing Officer for re-doing the assessment insofar as the imposition of equal addition of tax and penalty.

7. Accordingly, this writ petition is allowed in part and the impugned order is set aside only insofar as the equal addition of tax and the imposition of penalty. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment as stated supra, within a period of four weeks from the date of receipt of a copy of this order, after giving an opportunity of personal hearing to the petitioner. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

To

The Commercial Tax Officer,
Park Road Assessment Circle,
Brough Road,
Erode - 638 001, Erode District.

+1cc to Mrs.R.Hemalatha, Advocate, S.R.No.42329
+1cc to the Special Government Pleader (Taxes), S.R.No.42269

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CS/21/06/17