

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.15052 of 2017
and
W.M.P.No.16292 of 2017

K.H.Leather Industries Private Limited.,
Represented by its Director,
Akber Hussain,
226 Periyar EVR High Road, Kilpauk,
Chennai-600 010. Petitioner

Vs.

The Assistant Commissioner (CT) (FAC)
Kilpauk Assessment Circle,
No-F-50 Anna Nagar I Avenue,
Anna Nagar East,
Chennai - 600 102. ... Respondent

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the respondent herein TIN 33821120427/2010-2011 (Dec.10 to March 11) dated 28.04.2017 and to quash the same and direct the respondent herein to redo the proceedings after considering the objection along with the personal hearing.

For Petitioner : Mr.N.Inbarajan

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

O R D E R

Mr.S.Kanmani Annamalai, the learned Additional Government Pleader (Tax), takes notice for the respondent and 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 passed by the respondent dated 28.04.2017, rejecting the refund of ITC by considering the form W filed by the petitioner and also calling upon the petitioner to pay the balance tax due.

3. The learned counsel for the petitioner submitted that the impugned order violates the principles of natural justice, as the Assessing Officer has passed the impugned order even before the expiry of the time granted for filing the reply.

4. Heard both sides.

5. It is seen that before passing the impugned order the respondent issued a notice dated 25.04.2017 to the petitioner which was served on the petitioner on 26.04.2017. In the said notice, three days time was given to the petitioner to file their objection from the date of receipt of the notice.

6. However, the impugned order was passed even before the expiry of three days. In the meantime, the petitioner has also sent their objection on 28.04.2017 through speed post. Therefore, it is evident that the impugned order was passed in violation of principles of natural justice, as the Assessing Officer has not waited till the expiry of the time for filing the reply. Therefore, on this sole ground the impugned order has to be set aside.

7. Accordingly, the writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent for passing fresh orders on merits and in accordance with law, after considering the objections filed by the petitioner dated 26.04.2017, sent by RPAD on 28.04.2017. The petitioner shall also be given an opportunity of personal hearing before passing the final order. Whole exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

सत्यमेव जयते
Assistant Registrar

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Sub Assistant Registrar

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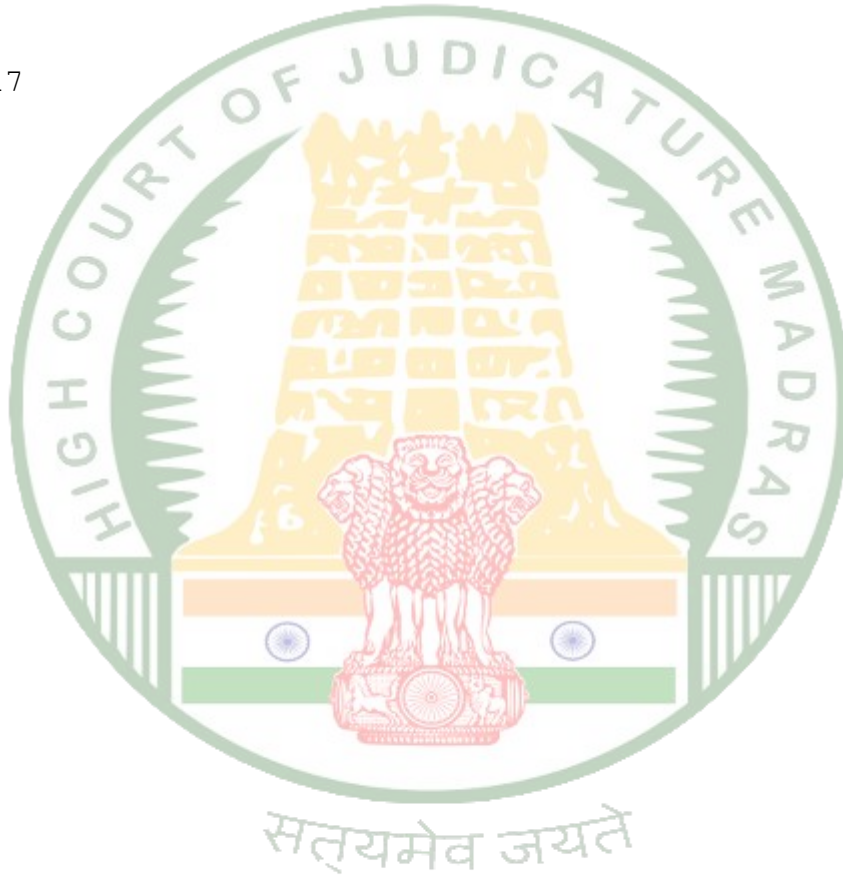
To

The Assistant Commissioner (CT) (FAC)
Kilpauk Assessment Circle,
No-F-50 Anna Nagar I Avenue,
Anna Nagar East,
Chennai - 600 102.

+1cc to the Government Pleader, S.R.No.42270
+1cc to Mr.N.Inbarajan, Advocate, S.R.No.42235

W.P.No.15052 of 2017

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CS/10/07/17



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