IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11576 of 2009 & M.P.No.1 of 2009

Sri Gurunathar Textile Mills (P) Ltd.,
rep. by its Managing Director, N.Ilango,
No.61/18, Kumalan Kuttai, Erode-638 011.
... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC),
Perundurai Assessment Circle, Perundurai.
... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in TNGST.2922328/2005-06 dated 17.09.2008, and quash the same and further direct the respondent to pass order afresh in accordance with law after grant of copies of D-7 records as requested and opportunity for production of evidence and documents in support of their case.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.K.Venkatesh,
Government Advocate

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent.

2.The petitioner is before this Court challenging an order of assessment under the provisions of the Tamil Nadu General Sales Tax Act, 1959. The impugned order has been challenged that it is in violation of principles of natural justice. The petitioner received a pre-assessment notice dated 30.06.2008, which was based upon an inspection conducted in the place of business of the petitioner and based on certain records, which were recovered by the Inspection Wing officers. The petitioner on receipt of the notice, sent a reply dated 07.08.2008, and also requested for copies of certain records. However, the respondent in a single line has rejected the petitioner's objections as not convincing without discussing about whether the stand taken by the petitioner is justified or not. In any event, the respondent being an assessing officer cannot complete the assessment solely based upon the report of the Investigation Wing, but has to take an independent decision in the matter.

3.Thus, I am fully convinced that there has been violation of principles of natural justice and the impugned order calls for interference. It is seen that at the time when the writ petition was entertained on 26.06.2009, the petitioner was directed to pay 25% of the tax demanded for grant of stay.

4.Thus, for the above reasons, this 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 copies of the records requested by the petitioner and after furnishing the copies of those records, the respondent shall give fifteen days time to the petitioner to submit their objections. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and re-do the assessment in accordance with law. As the petitioner has already paid 25% of the disputed tax, the said payment shall abide by the fresh orders to be passed by the respondent in terms of the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII )

//True copy//

Sub Assistant Registrar

abr

To

The Assistant Commissioner (CT) (FAC),
Perundurai Assessment Circle, Perundurai.

+1cc to Mr.R.Senniappan, Advocate SR.No.88273
+1cc to Government Pleader SR.No.88336

W.P.No.11576 of 2009

GN(10/01/2018)