In the High Court of Judicature at Madras

Dated : 14.11.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.29012 of 2017 & WMP.No.31249 of 2017

M/s.Tussor Machine Tools Pvt. Ltd. rep. by its Senior General Manager P.Rajavelu ...Petitioner

Vs

The Commercial Tax Officer, Trichy Road Assessment Circle, Coimbatore-18. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN No.33821883332/2015-16, quash the impugned order dated 31.8.2017 passed therein and further direct the respondent to give proper opportunity to the petitioner.

For Petitioner : Mr.B.Raveendran
For Respondent : Mrs.Narmadha Sampath, SGP

ORDER

Mrs.Narmadha Sampath, learned Special Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the challenge is to an order of assessment passed under the provisions of the said Act for the year 2015-16.

3. The petitioner's case is that without affording an opportunity of personal hearing, the assessment has been completed, especially when levying penalty under Section 27(3) of the said Act. According to the petitioner, the Assessing Officer is expected to issue a notice of personal hearing and then proceed in accordance with law. It is further submitted that though, in the objections given by the petitioner dated 23.6.2017 to the revision notice dated 15.6.2017, the petitioner stated that they are willing to produce stock details, without giving any opportunity to the petitioner, the proposal in the revision notice has been confirmed.

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4. On a perusal of the impugned order, it is seen that the petitioner did not enclose the requisite documents to establish their case that certain quantity of material has been sent for job work. The Assessing Officer cannot be blamed, since it is the duty of the assessee to produce documents along with the objections.

5. In so far as levy of penalty is concerned, the respondent should have given an opportunity of personal hearing. Therefore, to that extent, there is an error apparent on the face of the impugned order. For such reason, this Court is inclined to grant an opportunity to the petitioner to go before the Assessing Officer by filing a petition under Section 84 of the said Act.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to file a petition under Section 84 of the said Act along with all the documents before the Assessing Officer, within a period of 10 days from the date of receipt of a copy of this order. On receipt of the same, the Assessing Officer is directed to afford an opportunity of personal hearing to the authorized representative of the petitioner and proceed to redo the assessment on merits and in accordance with law, within a period of three weeks from the date, on which, the petition under Section 84 of the said Act is filed. Till then, no coercive action shall be taken against the petitioner.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer, Trichy Road Assessment Circle,
Coimbatore-18.

+1cc to Mr.B.RAVEENDRAN Advocate, S.R.No. 80740/17
+1cc to the Government Pleader, S.R.No. 80904/17

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