IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.3201 of 2018
and W.M.P.No.3937 of 2018

M/s.Raymix Concrete India P. Ltd.
Represented by its Managing Director
Mr.R.Maria Alasu Rajan
No.1/107, 1/108, P.H.Road
Nerkundram, Chennai. .. Petitioner

Versus

1.The Assistant Commissioner (ST)
J.J.Nagar Assessment Circle
Thirumangalam, Chennai - 600 040.

2.The Assistant Commissioner (ST) (FAC)
J.J.Nagar Assessment Circle. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, calling for the impugned proceedings of the first respondent in TIN/33331249471/2015-2016 and quash the impugned order dated 10.01.2018 as passed contrary to the provisions of the TNVAT Act and in violation of principles of natural justice and further direct the first respondent to conduct a proper enquiry as contemplated under the provisions of the TNVAT Act, consider the objections and the documents filed by the petitioner and after granting a personal hearing to the petitioner to pass a fresh assessment order in accordance with law.

For Petitioner : Mr.P.Rajkumar

For Respondents: Mrs.G.Dhanamadhri
Government Advocate.

ORDER

Heard Mr.P.Rajkumar, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate appearing for the respondents.

2. The petitioner has filed this writ petition challenging the assessment order for the year 2015-16, dated 10.01.2018. The main ground on which, the impugned assessment

order has been challenged, is that an opportunity of personal hearing has not been granted by the first respondent, who is the new Assessing Officer and who had taken over charge from the second respondent.

3. A counter affidavit has been filed by the first respondent, which consists of 26 pages. I have gone through the counter affidavit and find that most of the paragraphs are repetitions. The manner in which, the counter affidavit has been preferred is not convincing. The respondent is bound to state the case of the respondent then meat the grounds raised by the writ petitioner. The same facts should not be repeated as done by the respondent in the counter affidavit. Therefore, the Court has taken into consideration only such of those averments, which are necessary for deciding the issue raised before the Court.

4. Admittedly, the objections filed by the petitioner was received on 12.12.2017 by the second respondent. If the first respondent is the new Assessing Officer, who had taken charge, then he has to proceed from the stage where the second respondent has left the proceedings. In the petitioner's case, the stage was that objections filed by the petitioner were received on 11.12.2017. Therefore, the proper procedure for the first respondent is to afford an opportunity of personal hearing and conclude the assessment by passing a speaking order. This has not been done by the first respondent rendering the impugned order as being unsustainable in law and in violation of the principles of natural justice. Hence, on that ground alone, this Court is inclined to interfere with the impugned order.

5. Accordingly, this writ petition is allowed, the impugned order is quashed and the matter is remitted to the first respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. The first respondent shall take a decision with an open mind uninfluenced by the opinion expressed by him in the impugned order because the same has been quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vsm

To

1.The Assistant Commissioner (ST)
J.J.Nagar Assessment Circle
Thirumangalam, Chennai - 600 040.

2.The Assistant Commissioner (ST) (FAC)
J.J.Nagar Assessment Circle.

+ 1 cc to Mr. P. Rajkumar, Advocte SR.50537
+ 1 cc to Mr. Special Government Pleader Sr.51469

W.P.No.3201 of 2018

VGI(CO)
EU(27/08/2018)