IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.7217 of 2018 &
W.M.P. Nos.8965 of 2018

Tvl.Sree Jayamurugan Alloys Private Limited
Represented by its Managing Director
K.Rajendran
No.94/11, K.M. Nagar
Ayothiyapattinam
Salem - 636 103 .. Petitioner

v.

The Assistant Commissioner (CT)
Salem Rural Circle
Salem .. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in TIN 33532705518/2013-2014, dated 23.02.2018 and quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a Writ of Certiorari to call for the records on the file of the respondent dated 23.02.2018 and to quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

3. It is the case of the petitioner that the respondent had passed the impugned order without taking note of the

turnover reported with payment of tax through monthly returns filed from April 2013 to March 2014. According to the petitioner, the impugned order issued by the respondent is liable to be set aside, as being an order passed without furnishing copy of the cross verification report obtained from the departmental website for suitable reply. The petitioner further contended that the petitioner was not given an opportunity of personal hearing and he was not served with any notice prior to the passing of the impugned order, which is violative of principles of natural justice.

4. The learned counsel appearing for the petitioner submitted that the since an opportunity of personal hearing was not given to the petitioner, the impugned order may be set aside.

5. Mr.M.Hariharan, learned Additional Government Pleader (Tax) appearing for the respondent submitted that the impugned order may be set aside and the matter may be remanded back to the respondent for fresh consideration on payment of atleast 15% of the tax demanded by the respondent.

6. In view of the submission made by the learned counsel on either side, since the petitioner was not given an opportunity of personal hearing, the impugned order dated 23.02.2018 is set aside on condition that the petitioner paying 15% of the tax as demanded by the respondent, within a period of four weeks from the date of receipt of a copy of this order. If the petitioner fails to pay 15% of the tax within the time stipulated, the order passed by the respondent will stand. On compliance of 15% of the tax demanded by the respondent within the time stipulated, the matter will be remitted back to the respondent for fresh consideration. The respondent is directed to decide the matter afresh, after affording an opportunity of personal hearing to the petitioner.

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rj

To

The Assistant Commissioner (CT)
Salem Rural Circle
Salem.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.24004

+1cc to the Special Government Pleader, S.R.No.24088

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RRK(04/04/2018)