IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.3695 & 3696 of 2018 &
W.M.P.Nos.4518 & 4519 of 2018

HDFC Bank Limited
Rep. by its Vice President
Mr.Jagadeesha Udupa
115, Dr. Radhakrishnan Salai
Chennai - 600 004. ..Petitioner in both W.Ps

v.

The Deputy Commissioner (CT) - I
Large Taxpayers Unit
No.34, 'Durga Towers'
Marshall Road, Egmore
Chennai - 600 008 .. Respondent in both W.Ps

W.P.No.3695/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order bearing No.CST/838240/2014-15, dated 25.10.2017 for AY 2014-15 passed by the respondent and quash the same in so far as it assesses 5% of the sale of gold imported under Customs Bond for re-export and direct the respondent to pass a fresh orders after giving opportunity of personal hearing to the petitioner.

W.P.No.3696/2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order bearing No.CST/838240/2015-16, dated 25.10.2017 for AY 2015-16 and subsequent notice bearing No..CST/838240/2014-15 & 2015-16, dated 28.12.2017 passed by the respondent and quash the same in so far as it assesses 5% of the sale of gold imported under Customs Bond for re-export and direct the respondent to pass fresh orders after giving opportunity of personal hearing to the petitioner.

For Petitioner : Mr.Mr.Joseph Markos, Sr. Counsel
for Mr.Abraham Markos

For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

COMMON ORDER

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

2. The petitioner has filed the above writ petitions to issue a Writs of Certiorarified Mandamus to call for the records of the impugned orders dated 25.10.2017 for the assessment years 2014-15 and 2015-16 and subsequent notice dated 28.12.2017 for the assessment years 2014-15 & 2015-16 passed by the respondent, to quash the same in so far as it assesses 5% of the sale of gold imported under Customs Bond for re-export and direct the respondent to pass fresh orders after giving opportunity of personal hearing to the petitioner.

3. The learned Senior Counsel appearing for the petitioner submitted that the impugned orders dated 25.10.2017 had been passed by the respondent without issuing any show cause notice to the petitioner. Further, the learned Senior Counsel submitted that while issuing subsequent order on 28.12.2017 for the assessment years 2014-15 & 2015-16, the respondent had issued the show cause notice, however, without affording an opportunity to the petitioner to file his reply for the same. The learned Senior Counsel also submitted that without giving any notice to the petitioner and without giving any opportunity of hearing to the petitioner are violative of principles of natural justice.

4. Mr.M.Hariharan, learned Additional Government Pleader (Tax) appearing for the respondent submitted that since the impugned orders have been passed without giving any notice and opportunity of personal hearing , the impugned orders may be set aside and the matters may be remitted back to the respondent for fresh consideration.



5. Having regard to the submissions made by the learned counsel on either side, since the impugned orders dated 25.10.2017 have been passed without issuing any show cause notice and the impugned order dated 28.12.2017 has been passed without giving an opportunity of personal hearing, the same are liable to be set aside. Accordingly, the impugned orders dated 25.10.2017 and 28.12.2017 are set aside and the matters are remitted back to the respondent for fresh consideration. The petitioner is directed to consider the impugned order dated 25.10.2017 passed by the respondent in respect of the assessment years 2014-15 and 2015-16 as show cause notice and file their reply within a period of two weeks from the date of receipt of a copy of this order and on receipt of such reply, the respondent is directed to decide the matter afresh, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner.

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

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Rj

To

The Deputy Commissioner (CT) - I
Large Taxpayers Unit
No.34, 'Durga Towers'
Marshall Road
Egmore
Chennai - 600 008.

+ 1 cc to Special Government Pleader Sr.13314
+ 1 cc o Mr.Abraham Markos, Advocate Sr.13101

W.P.Nos.3695 & 3696 of 2018 &
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(CS-VIII)
EU(07/03/2018)