In the High Court of Judicature at Madras

Dated : 23.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.3938 of 2018 & WMP.No.4833 of 2018

Tvl.Kanunga Extrusion Pvt.Ltd.,
Hosur rep.by Managing Director ...Petitioner

Vs

The Assistant Commissioner (ST),
Hosur (South), Hosur. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in order dated 29.12.2017 in TIN 33163364594/2011-12 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged the assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2011-12 dated 29.12.2017.

3. The petitioner has raised the following contentions while challenging the assessment order namely

(i) that the order has been passed in violation of the principles of natural justice, as the objections filed by the petitioner dated 26.9.2017 have not yet been considered.

(ii) that an opportunity of personal hearing was not granted, which is mandatory, apart from the fact that the impugned order is in violation of the circular issued by the Commissioner bearing Circular No.7 dated 03.2.2014 and

(iii) that the cancellation of the registration of the selling buyers was with retrospective effect and on the actual date of purchases, the registration certificates were valid.

4. The learned Government Advocate, on instructions, submits that the petitioner has not submitted their objections to the notice dated 30.8.2017, though it is stated that objections were given on 26.9.2017. The respondent would deny the signature, which is contained in the objections dated 26.9.2017 as found in page 5 of the typed set of papers. It is further submitted that an opportunity of personal hearing was granted, for which, the notice dated 28.9.2017 was issued, but the petitioner did not appear.

5. The contentions raised by the respondent, if established, would be sufficient to dismiss the writ petition. However, considering the fact that the turnover is sought to be revised on account of cancellation of registration of the selling buyers, which, according to the petitioner, is with retrospective effect, this Court is inclined to grant one more opportunity to the petitioner.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to treat the impugned order as a show cause notice and file their objections within two weeks from the date of receipt of a copy of this order. On filing of such objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

To

The Assistant Commissioner (ST),
Hosur (South), Hosur.

+1cc to Mr.Adithya Reddy, Advocate SR.No.29903
+1cc to Special Government Pleader (Taxes) SR.No.30440

WP.No.3938 of 2018&
WMP.No.4833 of 2018

RSI(CO)
GN(11/05/2018)