IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.4880 of 2018 &
W.M.P.No.6021 of 2018

Salem Alloys
Rep. by its Partner
S.Sidesh Kumar
No.5/37, Salem Automech Complex
Salem Bangalore N.H. Road
Jagir Ammapalayam
Salem - 636 302.
.. Petitioner

Vs.

The Assistant Commissioner (ST)
Suramangalam Assessment Circle
Block No.3, Ward J
Survey No.17, Pitchards Road
Govt. Buildings, Hasthampatty
Salem 636 007
.. Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in TIN : 33042802545/2016-17, dated 28.09.2017, quash the same and further direct the respondent to re-do the assessment in accordance with law after providing personal hearing to the petitioner.

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



ORDER

Mr.M.Hariharan, learned Government Advocate (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 Certiorarified Mandamus to call for the impugned proceedings of the respondent dated 28.09.2017 in

respect of the assessment year 2016-17, to quash the same and further direct the respondent to re-do the assessment in accordance with law after providing personal hearing to the petitioner.

3. It is the case of the petitioner that the respondent had passed the impugned order without giving an opportunity of personal hearing, which is violative of principles of natural justice.

4. The learned counsel appearing for the petitioner submitted that since the petitioner was not given due opportunity of personal hearing, the impugned order is liable to be set aside on this ground alone.

5. Mr.M.Hariharan, learned Government Advocate (Tax) appearing for the respondent submitted that the respondent may be directed to give an opportunity of personal hearing to the petitioner and pass fresh order, in accordance with law.

6. Having regard to the submissions made by the learned counsel on either side, since the mandatory requirement under section 27 (2) of the Tamil Nadu Value Added Tax Act, has not been complied with by the respondent by giving an opportunity of hearing to the petitioner, the impugned order is liable to be set side solely on that ground. Accordingly, the impugned order dated 28.09.2017 is set aside and the matter is remitted back to the respondent for fresh consideration and the respondent is directed to decide the matter afresh, after giving an opportunity of personal hearing to the petitioner, on merits and in accordance with law.

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

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar



Rj

To
The Assistant Commissioner (ST)
Suramangalam Assessment Circle
Block No.3, Ward J
Survey No.17, Pitchards Road

Govt. Buildings, Hasthampatty
Salem 636 007

+1 CC to The Spl. Govt. Pleader(T) sr 18233.
+1 CC to Nr.N. Murali, Advocate sr 17899.

W.P.No.4880 of 2018 &
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VD(CO)
SP(22/03/2018)