IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 30.01.2018
Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.4994 of 2012
and
M.P.No.1 of 2012

M/s.Balu Spinning Mills (P) Ltd.,
Represented by its Managing Director,
B.Rajalakshmi. ...Petitioner

Vs.

The Assistant Commissioner,
(Commercial Taxes),
Bazaar Circle,
Tirupur. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records on the files of the respondent, in CST.No.659599/10-11 dated 20.01.2012 and to quash the same as being without jurisdiction and authority of law and contrary to the principle of natural justice and further direct the respondent to pass order afresh in accordance with law.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.M.Hari Haran
Additional Government Pleader

O R D E R

Heard Mr.R.Senniappan, the learned counsel appearing for the petitioner and Mr.M.Hari Haran, the learned Additional Government Pleader appearing for the respondent.

2. The petitioner has filed this Writ Petition, challenging the assessment order passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the assessment year 2010-11, dated 20.01.2012.

3. The challenge to the assessment order is on the ground of total violation of principle of natural justice, as no notice was issued to the petitioner, prior to the impugned assessment order, which is a revision of assessment.

4. On a reading of the impugned assessment order, it is seen that there is no averment about the revision notice issued by the respondent. Though such point was specifically raised by the petitioner, in the affidavit filed in support of the Writ Petition, and based on such submission, the Writ Petition was entertained and order of stay was also granted, till date, the respondent has not filed any counter affidavit, denying the said averment. Thus, going by the averment set out in the impugned assessment order, it is held that the assessment, having been issued without notice and opportunity to the petitioner, has to be held to be in violation of principles of natural justice.

5. Accordingly, this Writ Petition is allowed, the impugned order is set aside, and the respondent is directed to issue fresh notice, invite objection of the petitioner and afford an opportunity of personal hearing and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dna/sd

To

The Assistant Commissioner,
(Commercial Taxes),
Bazaar Circle, Tirupur.

+1 cc to M/s.R.Senniappan Advocate sr 7258
+1 cc to Special Govt Pleader sr 7621

aa22/02/2018