IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED:29.1.2018
Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.1615 of 2018 & WMP.Nos.2029 & 2030 of 2018

Tvl.Rasandik Auto Components
Pvt. Ltd., rep. by its Manager ...Petitioner

Vs

The Assistant Commissioner (CT),
Hosur South. ...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 proceedings of the respondent in CST No.1115889/2015-16 dated 31.7.2017 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Ms.G.Dhana Madhri, GA

ORDER

Ms.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 is before this Court for the second time challenging the assessment order under the Central Sales Tax Act, 1956 for the year 2015-16.

3. Earlier, the petitioner approached this Court challenging the assessment orders for the years 2014-15 and 2015-16 by filing WP.Nos. 11397 and 11398 of 2017. In the said writ petitions, the petitioner's grievance was that they were not afforded adequate opportunity to resist the proposals made in the notices dated 09.1.2017 and the main issue therein was non production of C Forms. The said writ petitions were disposed of by a common order dated 28.4.2017 by directing the respondent herein to consider the representations of the petitioner dated 23.3.2017 and reopen the assessment to enable them to file necessary C Forms. While disposing of the said writ petitions, this Court specifically directed that the petitioner would be entitled to an opportunity of personal hearing. However without affording an opportunity to the petitioner, the impugned assessment order has been passed though accepting the C Forms

filed by the petitioner and revising the turnover. Further, while passing the impugned order, the respondent stated that the petitioner did not file any proof for sales returns for a sum of Rs.87,41,441/- and hence, the turnover was assessed accordingly.

4. This Court finds from the revision notice dated 09.1.2017 that there is no specific averment made regarding sales return and the proposal to assesss such turnover to tax, though in the details of transaction in paragraph 2 of the revision notice dated 09.1.2017 in S.No.(g), Section 8a(1)(b) of the said Act has been referred. Thus, the petitioner did not have adequate opportunity to meet the allegations made against them so far as the sales return. It appears that the petitioner has got sufficient documents to prove the genuineness of their claim and in this regard, a representation was also sent to the Assessing Officer on 29.12.2017. To that extent, this Court of the view that the petitioner should be afforded an opportunity to go before the Assessing Officer.

5. Accordingly, the writ petition is partly allowed, the finding rendered by the respondent with regard to sales return alone is set aside and the matter is remitted to the respondent for a fresh consideration. The petitioner is directed to file their objections, along with necessary documents of proof that there is no case for revision of assessment, within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment under the said head in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (CT), Hosur South.

+1cc to Mr.Aditya Reddy, Advocate SR.no.6542
+1cc to Government Pleader Sr.No.7160

NRI(CO)
sm:16.2.2018

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of 2018