In the High Court of Judicature at Madras

Dated : 09.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.16918 of 2018 & WMP.No.20129 of 2018

M/s.Thanigai Ceramics,
rep by its Proprietor ...Petitioner

Vs

1.The Commercial Tax Officer,
Enforcement Wing, Tirupattur.

2.The Assistant Commissioner (ST),
Vellore (Rural), Vellore. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent in his proceedings in TIN No.33614324889/2016-17 dated 01.6.2018, quash the order passed therein and direct the second respondent to pass fresh orders by adopting the correct opening stock value as on 01.4.2016 and to give an opportunity of personal hearing as the impugned order passed for the year 2016-17 as above is illegal by change of opinion and against the principles of natural justice.

For Petitioner : Mr.C.Bakthasiromani
For Respondents : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. In the light of the glaring error, which is apparent on the face of the impugned order, the writ petition itself is taken up for final disposal.

2. Though the petitioner submitted elaborate reply dated 16.4.2018 to the notice dated 20.11.2017 and another reply dated 23.5.2018 to the notice dated 04.5.2018, the second respondent brushed aside all the contentions and by a non speaking order, completed the assessment.

3. The petitioner has specifically pointed out that while the inspection was conducted by the first respondent, a stock

tally statement was recorded, in which, both the officer concerned as well as the proprietor signed on 17.11.2016. However, when the revision notice dated 20.11.2017 was issued, a different figure was shown as opening stock. This was objected to by the petitioner by submitting their reply dated 16.4.2018 and 23.5.2018. Though the second respondent verbatim extracted the reply, he failed to consider the same and without assigning any reason, the second respondent completed the assessment. Thus, it is evidently clear that the second respondent abdicated his statutory duties as an Assessing Officer. This is sufficient to hold that the impugned order is illegal and unsustainable.

4. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the second respondent for a fresh consideration. The second respondent shall afford an opportunity of personal hearing, take up the assessment, consider the petitioner's submissions and the documents produced by them and take a decision in the matter without, in any manner, influenced by the observations of the Officials of the Enforcement Wing. No costs. Consequently, the connected WMP is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To
1.The Commercial Tax Officer, Enforcement Wing, Tirupattur.
2.The Assistant Commissioner (ST), Vellore (Rural), Vellore.

WP.No.16918 of 2018&
WMP.No.20129 of 2018

MP(CO)
SP(20/07/2018)