In the High Court of Judicature at Madras

Dated : 01.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19653 of 2018 & WMP.No.23087 of 2018

Tvl.KEF Infrastructure India Private Limited, rep.by its Finance Controller
...Petitioner

Vs

The State Tax Officer, Office of the Assistant Commissioner (ST), Krishnagiri Assessment Circle, Krishnagiri.
...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 TIN: 33803307497/2014-15 dated 08.6.2018 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, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, is aggrieved by the assessment order dated 08.6.2018 for the year 2014-15 passed under the provisions of the State Enactment.

3. After hearing the learned counsel for the parties and carefully perusing the materials placed on record, this Court finds that the revision of assessment has been done without affording an opportunity of personal hearing to the petitioner. This being mandatory, failure to afford an opportunity of personal hearing would render the impugned order to be in violation of the principles of natural justice.

4. The petitioner, while submitting their reply dated 12.4.2018 to the notice dated 15.11.2017, after putting forth an explanation, made a request that if any clarification is required, the respondent may inform them. In other words, the petitioner sought for further hearing in the event the respondent is not satisfied with the reply dated 12.4.2018 to the notice dated 15.11.2017.

5. As rightly pointed out by the learned Government Advocate, so far as the details regarding Form C Declarations are concerned, there is no whisper about the same in the reply dated 12.4.2018 and that they appear to have been canvassed for the first time before this Court.

6. The learned counsel for the petitioner submits that the petitioner is in possession of all the Form C Declarations and if one opportunity is given, the petitioner would be in a position to satisfy the Assessing Officer that there is no case for revision of the turnover. However, it is submitted that with regard to the difference in local purchase value, though the petitioner had given an explanation for 50% of the value, the same has not been considered and the respondent stated that the petitioner accepted the same during the course of inspection. He would further submit that the respondent, for the first time in the impugned assessment order, stated that the purchase and the sale value are not proportionate.

7. However, this Court finds that there was no such proposal in the show cause notice dated 15.11.2017. Thus, in the above factual and legal position, this Court is convinced that the petitioner is entitled to be granted one more opportunity to explain their stand before the Assessing Officer.

8. Accordingly, the writ petition is disposed of by directing the petitioner to treat the impugned order as a show cause notice and submit a comprehensive reply including the grounds raised in this writ petition within a period of one week from the date of receipt of a copy of this order. On receipt of the reply, the respondent shall afford an opportunity of personal hearing, verify the documents that the petitioner may produce and redo the assessment to the extent required in accordance with law. Till then, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer, Office of the Assistant Commissioner (ST), Krishnagiri Assessment Circle, Krishnagiri.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.52319

+1cc to the Spl Government Pleader, S.R.No.52528

WP.No.19653 of 2018&
WMP.No.23087 of 2018

CP(CO)
GSP(27/08/2018)