IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.01.2018
CORAM

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.16118 of 2013
and W.M.P.No.1 of 2013

M/s.Classic Welding Products (P) Limited
Represented by its Director,
G-12 & G-13 IX th Phase,
SIDCO Industrial Estate,
Hosur 635 126. ... Petitioner

Vs.

1.The Assistant Commissioner (Commercial Taxes),
Hosur (South).

2.Usha Rani,
The Superintendent
Office of the Assistant Commissioner (Commercial Taxes)
Hosur (South).
[2nd respondent impleaded as per order
dated 24.01.2018 made in M.P.No.2 of 2013] ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling upon the connected records of the proceedings made in CST.No.673644/09-10 dated 25.03.2013 passed by the respondent herein and quash the same.

For Petitioner : M/s.G.Sumitra

For R1 : M/s.G.Dhana Madhri
Government Advocate

O R D E R

Heard M/s.G.Sumitra learned counsel for the petitioner and M/s.G.Dhana Madhri, learned Government Advocate for the first respondent.

2. The petitioner who is a registered dealer on the file of the first respondent under the provision of the Central Sales Tax Act, 1956 is aggrieved by the impugned order of assessment under the Central Sales Tax Act (CST ACT) for the year 2009-

2010. The primary ground on which the petitioner has challenged the impugned assessment order, is on the ground that it is in violation of principles of natural justice. Since the petitioner's objection/reply to the notice dated 28.02.2012 though filed on 14.03.2013 was received by the second respondent on instructions of the first respondent, was not considered by the first respondent while passing the impugned assessment order. The copy of the reply dated 14.03.2013 find place in page No.14 of the typed set of papers in which it is seen that the Superintendent of the Office of the Assistant Commissioner (Commercial Taxes) , Hosur (South) has received the same and signed with date and designation. Though such a contention has been specifically raised by the petitioner in the affidavit filed in support of the writ petition as well as in the affidavit filed in support of the implead petition, no counter or objection has been filed either by the first respondent or the second respondent. Thus, I am satisfied that despite the objections filed by the petitioner to the re-opening notice which was available in the assessment file, the first respondent ignoring the same passed the impugned order. Thus, the impugned order is vitiated on the ground of violation of principles of natural justice.

3. For the above reasons, the writ petition is allowed, the impugned order is set aside and the matter is remanded to the first respondent for fresh consideration, who shall fresh notice to the petitioner, afford an opportunity of not less than fifteeen days to filed their objections and on receipt of the objections afford an opportunity of personal hearing to the authorized representative of the petitioner and re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

sji

To

The Assistant Commissioner (Commercial Taxes),
Hosur (South).

+1cc to Mr.G.Sumitra, Advocate, S.R.No.5677
+1cc to the Government Pleader, S.R.No.6108

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RRK(12/02/2018)