IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26438 of 2018
and
W.M.P.No.30716 of 2018

Tvl.Aica Laminates India Pvt Ltd,
Represented by its Zonal Manager G.V.Muralidhar
No.282/533, Sydenhams Road,
Nehru Timber Market, Choolai,
Chennai - 600 112. ... Petitioner

Vs.

The Assistant Commissioner [ST],
Choolai Assessment Circle,
II Floor, Palaniappa Maligai,
No.10, Greams Road, Chennai - 600 006. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records of the respondent vide his Order of Assessment in TIN 33650501903/2015-16 dated 18.09.2018 and quash the same as illegal, unconstitutional for having been passed in violation of principles of natural justice and further direct the respondent to pass fresh orders in accordance with law after granting the petitioner with an opportunity of personal hearing.

For Petitioner : Mr.R.Ganesh Kanna
For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (Tax) takes notice for the respondent and by consent of the parties, this writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 18.09.2018 passed in respect of assessment year 2015-16.

3. Heard both sides.

4. The only grievance expressed by the petitioner is that the Assessing Officer, in violation of principles of natural justice, passed the impugned order well before the date of personal hearing. Therefore, it is contended that on the sole ground of such violation, the impugned order is liable to be set aside.

5. Though the learned Additional Government Pleader (Tax) appearing for the respondent contended that the impugned order was passed after considering the objections filed by the petitioner, he is not disputing the fact that the date of personal hearing indicated in the notice of proposal as 24.09.2018 and that the impugned order was passed well before that date. Perusal of the revised final notice dated 31.08.2018 clearly indicates the date of personal hearing was fixed as 24.09.2018.

6. However, the respondent passed the impugned order on 18.09.2018 itself, which is evidently without conducting the personal hearing. Therefore, it is apparent that the principles of natural justice is violated by the respondent. Consequently, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the Assessing Officer to pass fresh orders of assessment, after affording an opportunity of personal hearing to the petitioner. It is made clear that this Court is not expressing any view on the merits of the assessment, as it is for the Assessing Officer to consider and decide. The whole exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//
Sub Assistant Registrar

krk
To

The Assistant Commissioner [ST],
Choolai Assessment Circle,
II Floor, Palaniappa Maligai,
No.10, Greams Road, Chennai - 600 006.

+1cc to Mr.A.Ravichandran, Advocate, S.R.No.70001
+1cc to the Government Pleader, S.R.No.69763

W.P.No.26438 of 2018

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