WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **02.08.2018**

CORAM:

THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P.(MD)No.16990 of 2018

and

W.M.P.(MD)No.14971 of 2018

Tvl.Nataraja Oil Mills Pvt. Ltd.,
Represented by its Director,
Uthangudi, Madurai. : Petitioner

Vs.

The State Tax Officer,
Melur Assessment Circle,
Melur. : Respondent

PRAYER: Writ Petition - filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records on the file of the respondent in TIN 33774940751/2015-16 dated 29.06.2018 and quash the same as illegal, invalid and against the principles of natural justice.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.A.Muthukaruppan
Additional Government Pleader

ORDER

The petitioner is a dealer of edible oil and registered under the Tamil Nadu Value Added Tax Act, 2006. He filed returns for the assessment year 2015-16 and claimed exemption on turnover as per the Form-WW. Thereafter, on cross verification done by the Enforcement Wing Officials on 14.10.2015, 15.10.2015 and 16.10.2015, at the place of the business of the petitioner, certain defects were found and were reported to the respondent. After considering the report of the Inspection team, the respondent issued a revision notice in TIN 33774940751/2015-16 dated 06.04.2018. The petitioner filed an elaborate reply on 14.05.2018 followed by letter dated 19.06.2018. In reply, the petitioner relied on various judgments of the Courts and Tribunals on the aspects of stock difference, Input Tax Credit reversal, etc. The respondent has fixed a date for personal hearing on 19.06.2018. The petitioner appeared on that day and submitted a letter on 19.06.2018, wherein it is stated that the petitioner has submitted all the original documents along with the reply dated 14.05.2018, which are still lying in the office of the respondent. However, while passing the impugned order dated 29.06.2018, the respondent has simply stated that the objections, furnished through the above mentioned letters, were examined with connected records and confirmed the proposals and passed final orders. Neither the respondent has considered the objections raised by the

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petitioner nor applied his mind to the judgments stated in the reply.

2. Heard the submissions on both sides.

3. A simple reading of the impugned order clearly shows that the order was passed without application of mind and without taking into consideration of the objections filed by the petitioner. The provision of personal hearing is not a mere formality. The authority has to consider the objections effectively in order to do substantial justice. Insofar as the order passed by the assessing authority, who is a quasi judicial authority, is concerned, it does not set out any reasons or discussions on the objections raised by the petitioner or on the judgments relied on by him in support of his case. The respondent passed the order without considering the materials, which amounts to a non-speaking order and in violation of principles of natural justice.

4. In view of the above, the impugned order passed by the respondent in TIN 33774940751/2015-16 dated 29.06.2018 is set aside and the matter is remitted back to the respondent for fresh consideration. The respondent shall pass orders on merits and in accordance with law, being uninfluenced by the report of the Enforcement Wing Officials, after providing an opportunity of personal hearing, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To
The State Tax Officer,
Melur Assessment Circle,
Melur.

+1cc to Mr.A.Chandrasekaran, Advocate Sr.No.76676
+1cc to Spl.Government Pleader Sr.No.76977

SM
VB/RP/SAR1/28.09.2018/2P/4C

Order made in
W.P.(MD)No.16990 of 2018
02.08.2018

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