IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.2459 of 2019
and
W.M.P.No.2735 of 2019

M/s. Velan Kraft House Private Limited,
Represented by its Director,
No.2C, Shastri Nagar, 1st Main Road,
Adyar, Chennai - 600020. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Adyar Assessment Circle,
Chennai - 600028. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings in TIN No.33020962369/2013-14 dated 07.12.2018 and to quash the order passed therein and to direct the respondent to pass fresh orders after providing an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mr.M.Hariharan
Additional Government Pleader

O R D E R

The Challenge made in this writ petition is against the order of assessment dated 07.12.2018 relevant to the Assessment Year 2013-14.

2. Heard both sides.



3. The grievance of the petitioner before this Court is that the impugned order of assessment was passed in violation of principles of natural justice, since the petitioner was not provided with an opportunity of personal hearing. It is also contended that the impugned order of assessment travelled beyond the scope of the notice of proposal since under the notice, it was proposed to reverse the ITC to the tune of Rs.20,06,391/-, whereas in the impugned order, the reversal of ITC was made to the tune of Rs.40,15,896/-. Therefore, it is contended that the Assessing Officer has made the assessment order in total non-application of mind.

4. It is seen that in respect of the Assessment Year 2013-14, the Assessing Officer issued the notice of proposal dated 13.12.2017 to revise the assessment. It is seen from the said notice that the Assessing Officer proposed to reverse the ITC to the tune of Rs.20,06,391/-. It is also seen in the said notice that the assessee will be provided with an opportunity of personal hearing. It is seen that the petitioner has filed a reply/objection dated 28.12.2017, wherein, apart from making their objections to the proposal, they also sought for affording an opportunity of personal hearing so as to enable them to produce the connected documents in support of their contention. However, the fact remains that the Assessing Officer concluded the assessment based on the reply submitted by the petitioner without affording an opportunity of personal hearing. It is also seen that the Assessing Officer has reversed the ITC to the tune of Rs.40,15,896/-.

5. Therefore, I find that the impugned order, apart from violating the principles of natural justice by not affording an opportunity of personal hearing, seems to have been passed in total non-application of mind. Therefore, I find that the matter needs to go back to the Assessing Officer for redoing the assessment once again after giving due opportunity of personal hearing to the petitioner.

6. Thus, without expressing an view on the merits of the contentions raised by both parties, this writ petition is allowed and the impugned order of assessment is set aside only on the reasons/observations stated supra. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment after giving an opportunity of personal hearing to the petitioner and pass fresh order on merits and in accordance with law. The whole exercise shall be made by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//
Sub Assistant Registrar



sni
To

The Assistant Commissioner (ST),
Adyar Assessment Circle,
Chennai - 600028.
+1cc to Mr.C.Baktha Siromoni , Advocate SR.No. 94441

W.P.No.2459 of 2019

A.SK(21/11/2019)