IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.8954 of 2011
and
MP. No.1 of 2011

M/s.Space Crafts,
Represented by its Proprietor,
Mr.H.Mohamed Haneefa,
Shop No.110, First Floor,
Phase-II, Spencer Plaza,
No.769, Anna Salai,
Chennai 600 002. .... Petitioner

Vs

The Assistant Commissioner (CT),
Anna Salai III Assessment Circle,
Chennai - 600 006. ...Respondent

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the files of the respondent in T.0640753/03-04 dated 02.2.2011 and quash the same as being without jurisdiction and authority of law and beyond the prescribed period of limitation under Section 16 of the Tamil Nadu General Sales Tax Act, 1959 and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Ms.G.Dhanamadhiri,
Government Advocate (T)

O R D E R

The petitioner challenges an order of assessment dated 02.02.2011 passed in terms of the provisions of the Tamil Nadu General Sales Tax Act, 1959 for the period 2003-04. The speaking portion of the order runs into a single paragraph where the Officer states as follows:

' A Notice was issued to the dealer to file their objections if any to the above proposals. But the dealers have not filed any objections. Hence I confirm the proposals & finally determine their total and Taxable turnover of Rs.14723402/- and Rs.13522377/- respectively under the TNGST Act, 59 for the year 2003-04'

2. Mr.R.Senniappan, learned counsel for the petitioner draws attention to reply dated 27.01.2011 that, according to him, has been filed before the Assessing Authority. Inter alia, the petitioner has sought additional time to file objections to pre-assessment proposals citing certain family issues. Learned Government Advocate states that no such letter is available on file.

3. Be that as it may, the order of assessment is cryptic as seen from the extract above. Moreover, the admitted portion is that no personal hearing has been afforded to the petitioner. I thus have no hesitation in setting aside the impugned order on the ground of gross violation of the principles of natural justice.

4. Let the petitioner appear before the Assessing Authority on friday the 6th of December, 2019 at 10.30 a.m without expecting any further notice in this regard. The Assessing Authority will hear the petitioner, consider any/all materials that may be filed by the petitioner and pass a speaking order of assessment, de novo, and in accordance with law within a period of four (4) weeks from date of conclusion of personal hearing.

5. Learned counsel for the petitioner requests copies of D7 records since the impugned order is based thereupon. The petitioner is permitted to collect copies of the D7 records from the respondent Assessing Officer on payment of necessary charges.

6. This writ petition is allowed. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rkp

To

The Assistant Commissioner (CT),
Anna Salai III Assessment Circle,
Chennai - 600 006.

+1cc to Mr.R.Senniappan, Advocate SR.97297
+1cc to Spl Government Pleader(Taxes) SR.97797

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SAI(CO)
CB(05/12/2019)