IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 28.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.7049 of 2012
and
M.P.Nos.1 to 3 of 2012

Bhuwalka Steel Industries Limited,
Rep. by its Director
Ajay Kumar Bhuwalka,
"Bhuwalka Centre",
No.71, 3rd Cross,
Residency Road,
Bangalore - 560025. ...Petitioner

Vs

1. The Assistant Commissioner (CT),
Egmore I Assessment Circle,
Spur Tank Road,
Chennai - 600031.

2. The State of Tamil Nadu,
Rep. by the Secretary,
Commercial Taxes and Registration
(B1) Department,
Fort St.George,
Chennai - 600009.

3. The State Industries Promotion
Corporation of Tamil Nadu Ltd.,
19-A, Rukmani Lakshimapathy Road,
Post Bag No. 7223,
Egmore, Chennai - 600008. ...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, to call for the records on the files of the first respondent herein in TNGST No.0441365/2002-03, 2003-04, 2004-05 dated 28.02.2012 and quash the same.

For Petitioner : Mr.K.A.Parthasarathy

For Respondents: Mr.V.Haribabu,
Additional Government Pleader
for R1 & R2
Mr.Ramesh Venkatachalapathy
for R3

O R D E R

The short point involved in the present writ petition is that, when the respondents herein had issued a notice dated 10.02.2012 proposing to demand deferral payment for the period 2011-12, 2012-13 and 2013-14, the petitioner-Company herein had given their detailed objections on 17.02.2012. Since the respondents herein had sent the impugned notice dated 28.02.2012 demanding payment of the alleged arrears of the sales tax, without reference to the objections given, the present writ petition has been filed.

2. The learned counsel for the petitioner submitted that since the present impugned notice is without consideration of the earlier objections given by the petitioner on 17.02.2012, the present impugned notice demanding the payment within two days, cannot be sustained.

3. A perusal of the impugned notice also does not reveal that the petitioner's objections dated 17.02.2012 were considered and as such, it can only be held that the same is in violation of the principles of natural justice. On this short ground, the impugned notice is liable to be set aside. Nevertheless, if the respondents are given liberty to consider the objections and then pass final orders, the ends of justice would be secured.

4. In the light of the above observations, the impugned notice dated 28.02.2012 is set aside and the matter is remanded back to the respondents herein for fresh consideration of the petitioner's objections dated 17.02.2012. On consideration of the same, the respondents shall pass appropriate orders in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

hvk

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Assistant Commissioner (CT),
   Egmore I Assessment Circle,
   Spur Tank Road,
   Chennai - 600031.

2. The State of Tamil Nadu,
   Rep. by the Secretary,
   Commercial Taxes and Registration
   (B1) Department,
   Fort St.George,
   Chennai - 600009.

3. The State Industries Promotion
   Corporation of Tamil Nadu Ltd.,
   19-A, Rukmani Lakshimapathy Road,
   Post Bag No. 7223,
   Egmore, Chennai - 600008.

+1cc to Mr.Ramesh Venkatachalapathy, Advocate, SR.No.75748
+1cc to the Special Govt.Pleader (Taxes), vide SR.No.74942
+1cc to Mr.N.Inbarajan, Advocate, SR.No.74207

W.P.No.7049 of 2012
and
M.P.Nos.1 to 3 of 2012

Kak(10/10/2019)