IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29903 of 2019
and
W.M.P.Nos.29807 & 29809 of 2019

M/s.Ocean Supply and Storage Systems
Represented by Managing Partner
Mr.Philip A.Moolakkal ...Petitioner

vs.

The State Tax Officer
Attur Rural Circle
Attur Taluk, Salem District. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the files of the respondent herein in TIN.No.33673262803/2016-2017 dated 19.07.2019 received on 01.08.2019 and quash the same.

For Petitioner : Mr.S.Rajesh
For Respondents : Mr.M.Hariharan
Additional Government Pleader

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondents. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order revising the assessment under Section 27(1)(a) of the Tamil Nadu Value Added Tax Act, 2006, dated 19.07.2019 relevant to the assessment year 2016-2017.

3. The main grievance of the petitioner is that the Assessing Officer violated the principles of natural justice by not affording an opportunity of personal hearing to the petitioner, even though the notice of proposal contemplates such opportunity. Therefore, it is contended that, had the petitioner been given such opportunity, they would have produced all the relevant documents in support of their explanation.

4. The learned Additional Government Pleader though contended that the petitioner did not file any documents along with the reply, has however, not disputing the fact that the petitioner was not afforded with an opportunity of personal hearing, even though the notice of proposal indicated so.

5. Upon hearing both sides and perusing the materials placed before this Court, it is evident that the notice of proposal issued on the petitioner clearly indicated that the petitioner would be given an opportunity to appear in person and represent their case personally before the Assessing Officer. It is further seen that the petitioner though filed their objections to the said notice of proposal, has however, not been provided with personal hearing and therefore, it is evident that the impugned order was passed in violation of principles of natural justice. Though several contentions are raised by the petitioner on merits of the assessment, this Court is not inclined to look into the same and express any view, as it is for the petitioner to appear before the Assessing Officer and place all the materials before him so as to enable the Assessing Officer to take appropriate view on the merits of the matter.

6. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment, after giving due opportunity of personal hearing to the petitioner. It is made clear that this Court is not expressing any view on the merits of the matter, as it is for the Assessing Officer to consider and pass fresh orders on merits and in accordance with law. The whole exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mk
To
The State Tax Officer
Attur Rural Circle
Attur Taluk, Salem District.
+1cc to Mr.S.Sivanandam , Advocate SR.No. 88037
+1 cc to Spl Government Pleader(Taxes) Sr.No. 88284

W.P.No.29903 of 2019

gp (CO)
A.SK(26/11/2019)