IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32299 of 2019
and
W.M.P.No.32593 of 2019

Novares India Automotive Private Limited
rep. by its Managing Directorate
Boyapati Sreenivasa Road,
No.P-43, 8th Avenue,
Mahindra World City,
Chengalpattu - 603 004. ...Petitioner

vs.

The Assistant Commissioner (ST)
Chengalpet Assessment Circle,
No.15-B, 1st Main Road,
Annanagar,
Chengalpattu - 603 001. ...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 impugned proceedings of the respondent passed in CST: 981093/2017-18 (April-17 to June-17) dated 10.09.2019 and quash the same and further direct the respondent to re-do the assessment in accordance with law after providing sufficient opportunity including personal hearing to the petitioner.

For Petitioner : Mr.Mr.N.Murali

For Respondent : Mr.V.Haribabu,
Additional Government Pleader

O R D E R

This Writ Petition is filed challenging the order of assessment dated 10.09.2019 passed under CST relevant to the assessment period April 2017 to June 2017.

2. Heard both sides.

3. The grievance of the petitioner before this Court is that the impugned order was passed in violation of principles of natural justice, since no notice of proposal was issued to the petitioner before passing the impugned order.

4. Perusal of the impugned order does not indicate as to whether a notice of proposal was issued to the petitioner or not. On the other hand, the impugned order is totally silent about the same.

5. Learned Additional Government Pleader though sought to rely on a notice dated 10.05.2019 placed in the typed set of papers, perusal of the same would show that the said notice was issued under the TamilNadu VAT Act, 2006 for the assessment year 2017-2018 and not in respect of the impugned assessment in CST for the period April 2017 to June 2017. Learned Additional Government Pleader further relied on a final notice dated 10.06.2019 relevant to the period April 2017 to June 2017 under CST. It is seen that the petitioner, in response to the said notice has filed their reply dated 24.06.2019. A copy of the letters delivery book is also placed in the typed set of papers indicating that some communication dated 24.06.2019 was received by the Assessing Officer. In any event, as none of the communications were referred to in the impugned order, this Court is of the view that it is a matter to be remitted back to the Assessing Officer to reconsider the whole issue and decide after giving an opportunity of hearing to the petitioner and considering the reply, if any, filed by the petitioner.

6. Accordingly, the Writ petition is disposed of without expressing any view on the merits of the matter as follows:

The Writ Petition is allowed and the impugned assessment order is set aside by remitting the matter back to the Assessing Officer to re-do the assessment on merits and in accordance with law, after considering the reply already filed by the petitioner dated 24.06.2019 and also by giving an opportunity of hearing to the petitioner. Such exercise shall be done by the respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsi

To

The Assistant Commissioner (ST)
Chengalpet Assessment Circle,
No.15-B, 1st Main Road,
Annanagar,
Chengalpattu - 603 001.

+1cc to Mr.Mr.N.Murali, Advocate sr.98217
+1cc to Government Pleader(Taxes) SR.NO. 98549

W.P.No.32299 of 2019

mr(co)
nr 20/12/2019