



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34436 of 2019

and

W.M.P.No.35109 of 2019

Sundaram Fasteners Ltd.,
Rep. by its Chief Financial Officer
Survey Nos.4, 12 & 78, 85 & 86
Kothagondapalli Village
Harita, Hosur - 635 109.

...Petitioner

vs.

The Joint Director
Industrial Safety & Health
Hosur.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in No.5046/2019 and quashing the order dated 27.11.2019 directed the respondent to issue a "speaking order", after considering the reply of the petitioner dated 22.11.2019.

For Petitioner : Mr.Anand Gopalan
for M/s.T.S.Gopalan and Co.,

For Respondent : Mr.D.Suriyanarayanan
Additional Government Pleader

O R D E R

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

2. The petitioner is aggrieved against the order of the respondent dated 27.11.2019, wherein and whereby, the petitioner was informed that the reply filed to the show cause notice was not in conformity to the Factories Acts and Rules and hence, the file is forwarded for further action.



3. The petitioner is a Company, engaged in the business of manufacturing of Fasteners and Auto Components. It appears that the petitioner-Company was inspected by the respondent on 05.11.2019 and he made an inspection report citing certain lapses. Based on such inspection report, the respondent through notice dated 05.11.2019, called upon the petitioner to show cause as to why the petitioner should not be prosecuted for the violations noticed during the inspection on 05.11.2019. On receipt of such show cause notice, the petitioner gave explanation in writing on 22.11.2019. The said explanation dealt with each of the allegations made in the inspection report. The respondent, on receipt of the said reply to the show cause notice, passed the impugned order thereby rejecting the explanation/objection given by the petitioner and forwarding the file for further action.

4. The main grievance of the petitioner before this Court is that the impugned order is a non-speaking one, as the respondent failed to consider any of the objections/explanation given by the petitioner.

5. Perusal of the impugned order would show that the respondent received the reply to the show cause notice on 27.11.2019 and passed the impugned order on the very same day, that too, without advertent to the allegations made in the show cause notice and the explanation/reply given by the petitioner to those allegations, except by saying that the reply is not in conformity to the Factories Acts and Rules, without giving any reason or finding as to how the reply is not in conformity to the Factories Acts and Rules. Therefore, as rightly claimed by the petitioner, the impugned order is a non-speaking one and therefore, cannot be sustained. Needless to say that the authority, who issued the show cause notice and received the reply/objections for the same, has to consider the allegations made in the notice and the explanation/reply given by the noticee and thereafter, to pass a speaking order indicating whether the explanation is acceptable or not. In this case, the respondent did not do so.

6. Therefore, this Court is fully convinced to set aside the impugned communication and to remit the matter back to the respondent for passing a speaking order. At the same time, this Court makes it clear that it is not expressing any view on the merits of the claim made in the show cause notice and the inspection report as well as the reply/objection filed by the petitioner, since it is for the respondent to consider and decide. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is



remitted back to the respondent to pass a speaking order on merits and in accordance with law, after considering the objections raised by the petitioner. Such exercise shall be done by the respondent within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Joint Director
Industrial Safety & Health
Hosur.

+1 cc to M/s.T.S.Gopalan,Advocate Sr.No. 103068

+1 cc to The Government Pleader Sr.No. 103678

AKM/07.01.2020/3P-3C /

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