BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **25.06.2019**
CORAM:
THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
W.P.(MD)No.10717 of 2017
and
W.M.P.(MD)No.8172 of 2017

M/s.RLS Alloys Pvt. Ltd.,
Represented by its Managing Director, P.Tamilarasu,
S.F.No.118/1-3, Sethurapatti Road,
Fatima Nagar, Trichy. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy. ...Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in TIN33633463227/2015-16 dated 01.03.2017 and quash the same as illegal, arbitrary and without jurisdiction and direct the respondent to consider the relevant records and redo the assessment afresh after affording an opportunity of personal hearing.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Murugan
Additional Government Pleader

ORDER

The petitioner is a manufacturer of Iron and Steel Ingots. In respect of the period 2015-16, a deemed assessment was made in terms of the Tamil Nadu Value Added Tax, 2006 [in short 'Act']. There was an inspection conducted at the petitioners' place of business by the enforcement wing officials on 28.06.2015 and 02.07.2015. The Inspecting Officials came to the conclusion that there was a stock discrepancy to the extent of Rs.3,88,84,626/- and an addition was made towards purchase / sales omission / sales suppression. The turnover was proposed to be estimated at a sum of Rs.5,04,68,356/- along with levy of penalty under Section 27 (3) of the Act, vide notice dated 12.12.2016.

2. The petitioner filed a reply dated 03.01.2017 pointing out that only a rough estimate of stock has been taken at the time of inspection and in fact, the inspecting authority had also omitted to take into account a substantial amount of sand, stocked in the storage yard. If the 30,000 tonnes of sand valued at Rs.1,500/-

per tonne had been taken into account, there would have been no discrepancy at all.

3. The petitioner further pointed out that sand constituted one of the raw materials for the manufacture of castings in the foundry and this ought to have been taken into account in arriving at the stock position.

4. Moreover, opportunity of personal hearing had been sought for prior to completion of proceedings. However, the impugned order came to be passed on 01.03.2017, where though the assessing authority refers to the reply dated 03.01.2017, admittedly, no personal hearing has been granted.

5. Though no counter has been filed in the matter, Mr.R.Murugan, learned Additional Government Pleader is ready to proceed with the hearing, based on instructions received from the Assessing Officer.

6. This Court had appointed an Advocate Commissioner on 08.06.2017 to verify the stock of sand available in the petitioners' premises. A report has been filed on 24.06.2017, wherein the Commissioner has confirmed that there was sand available in the premises, of an extent, roughly of 11142.72 tonnes.

7. Be that as it may, without aluding to the merits at all, I am of the view that this matter is liable to be disposed of on the short point of violation of principles of natural justice, seeing as the petitioner has admittedly sought an opportunity of personal hearing that has not been granted.

8. In the aforesaid circumstances, the impugned assessment dated 01.03.2017 is set aside. The petitioner is permitted to appear before the assessing officer on **08.07.2019 at 10.30 a.m.,** along with its written reply to the pre-assessment notice as well as all other materials that it may choose to submit in support of its contentions. Proceedings for assessment shall be completed *denovo* by the assessing authority, taking into account the submissions advanced, both personal as well as written, vide a speaking order of assessment to be passed within a period of four weeks from the date of conclusion of the personal hearing.

9. This Writ Petition is allowed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy.

+1 CC to Mr.S.KARUNAKAR, Advocate SR-71239.
+1 CC to M/s.SPL GP SR-71555.

Order made in
W.P.(MD)No.10717 of 2017
Dated:
25.06.2019

CS: (08/07/2019) 3P 4C