IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.25505 of 2006
and WMP.No.11388 of 2019

M/s.Bharat Technologies Auto
Components Limited,
No.31-A Ambattur Industrial Estate,
Chennai - 600 058. ..Petitioner

-Vs-

The Commercial Tax Officer,
Ambattur Assessment Circle,
Chennai - 600 049. ..Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorari, calling for the records of the respondent in his proceedings in TNGST.1320396/2002-2003 and to quash the assessment order dated 20.06.2006 made therein.

For Petitioner : Mr.R.L.Ramani Senior Counsel for
Mr.K.J. Chandran
For Respondent : Mr.A.N.R.Jayaprathap, SGP(T)

O R D E R

With the consent of both the parties, the Writ Petition is taken up today and heard through video conferencing.

2. The respondent herein had issued a pre-assessment notice for the year 2002-2003 on 10.02.2005, to which objections were filed. It is the submission of the learned counsel for the petitioner that while some of the objections were considered, certain proposed issues were dropped. Consequently on 14.07.2005, a revised notice has been issued for which the petitioner has raised his objections. Consequently, a revised notice was issued on 29.09.2015.

3. The learned Senior counsel for the petitioner would submit that for all these notices, the petitioner had given a detailed reply on 26.10.2005 and inspite of the same, the impugned order came to be passed on 20.06.2006, ignoring the objections raised by the petitioner.

4. In the affidavit filed before this Court, there is a specific averment made that the assessee had given their objections to the revised notice dated 29.09.2005. However, counter affidavit filed by the department to this effect only states that the assessee had not filed any valid proof for the difference of tax on the sales of plant and machinery by M/s.India Meters Ltd., and therefore, the sale value was assessed to tax. I do not intend to go into the sanctity of the statements as to whether the objections were filed or not. However, the fact remains that the averments made by the petitioner had not been controverted by the respondent, in the counter affidavit. As such, an opportunity can be extended to the petitioner and thereby the ends of justice could be secured.

5. In the light of the above observations, the impugned order dated 20.06.2006, is set aside. Consequently, the matter is remanded back to the respondent for fresh consideration. The petitioner is at liberty to give fresh objections to the reassessment notice dated 29.09.2005 along with the supporting documents, atleast within a period of 15 days from the date of receipt of a copy of this order and thereafter, the respondent herein shall extend due opportunity of personal hearing to the petitioner and take further course of action, in accordance with law as expeditiously as possible.

6. The writ petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer,
Ambattur Assessment Circle,
Chennai - 600 049.

+1 cc to M/s.B.Raveendran,Advocate Sr.No.27665 dt:26.8.2020
+1 cc to Special Government Pleader(Taxes)
in Sr.No.27562 dated:25.8.2020

W.P.No.25505 of 2006
and
WMP.No.11388 of 2019

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