IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.3168 of 2021
and
WMP. No.3596 of 2021

A-Vone Building Materials,
Rep by its Partner S.Habib Rahman,
36, Bharathy Road, Cuddaore - 607 001. …Petitioner

Vs

The State Tax Officer,
Cuddalore Town.
… Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the entire records of the respondent in TIN No.33594381839/2013-14 dt 14.12.2020 and quash the order passed therein.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.ANR.Jayaprathap,
Government Advocate

O R D E R

Mr.ANR.Jayaprathap, learned Government Advocate accepts notice for the respondent and is armed with instructions to proceed finally in the matter and hence, by consent of both sides, the Writ Petition is disposed finally even at the stage of admission.

2. Heard the submissions of Mr.A.P.Srinivas, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Government Advocate for the respondent.

3. The impugned order of assessment is dated 14.12.2020 and relates to the period 2013-14, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Apparently, there is a violation of principles of natural justice in the matter. Pre-assessment notice was issued on 07.06.2017, in respect of which, the petitioner has filed its objections on 20.07.2017. There was silence for more than three years thereafter and on 20.10.2020, a revised notice was issued by the incumbent officer, in conclusion of which, he calls upon the petitioner to file objections with

evidences within 15 days of the notice and also provides for a personal hearing without stipulating any specific date or time.

4. I am of the view that for personal hearing to be effective, it must be fixed by date and time, as the Officer cannot be expected to be available on all days at all times to hear the petitioner as and when he chooses to appear.

5. In response to the revised notice, the petitioner has sought some time under cover of letter dated 28.10.2020. (copy of which is unavailable on file, but referred to at serial no.7 in the reference column in the impugned order). However, without affording any further opportunity or hearing the petitioner personally, the impugned order has come to be passed, in my view, in violation of the principles of natural justice.

6. In the light of the above, the impugned order is set aside. The petitioner will appear before the respondent along with detailed objections and evidences, if any, to the revised notice dated 20.10.2020, on Monday, the 1st of March, 2021 at 10.30 a.m. without expecting any further notice. After hearing the petitioner and considering the objections as well as evidences, if any, orders of assessment shall be passed de novo within a period of four (4) weeks thereafter.

7. This Writ Petition is allowed. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The State Tax Officer,
   Cuddalore Town.

+1cc to Mr.A.P.SRINIVAS, Advocate, S.R.No.8856

+1cc to the Government Pleader, Highcourt, Madras,S.R.No.9463

KK(CO)

SM/26/02/2021

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