IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10704 of 2021 &
WMP. No.11340 of 2021

Alstom Transport India Ltd.,
Represented by its Authorized Signatory,
N.P.Mallikharjun Sivalenka,
SF No.41/1 B1 and 41/2-A
Kangeyampalayam Village,
Sulur Taluka,
Coimbatore-641401 ...Petitioner

Vs.

1.Assistant Commissioner (ST) (FAC)
Palladam-II Assessment Circle,
Palladam-641 664

2.State Tax Officer
Palladam-II Assessment Circle,
10, Pollachi Road,
Palladam-641 664

3.Commissioner of Commercial Taxes,
Chepauk, Chennai-05 ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of certiorari calling for the records relating to the impugned order passed by the 1st respondent in TIN No.33171802452/2014-15 dated 10.03.2021 and quash the same.

For Petitioner : Ms.R.Charulatha

For Respondents : Mr.ANR Jayaprathap
Government Advocate

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O R D E R

Mr.ANR Jayaprathap, learned Government Advocate accepts notice for the respondents and has received papers. He is thus ready to argue the matters on merits. This writ petition is thus

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disposed finally, even at the stage of admission by consent expressed by both learned counsel.

2. The challenge is to order dated nil March 2020. However, it has been signed on 10.03.2021 and received by the petitioner on 19.03.2021. This is the first flaw in the impugned order. As regards adherence to the principles of natural justice, a notice has been issued on 11.07.2019, wherein the Assessing Officer calls for objections to the pre-assessment proposals, contained therein, to be filed within 15 days from receipt of the notice under threat of final orders being passed in the alternative. He also says that the assessee will be heard during the notice period.

3. An opportunity of personal hearing, in order to be effective, has to fix the hearing by day and time and this is a view that I have taken in several matters earlier. In this case, no such personal hearing has been specifically extended to the petitioner. Thus, I am of the view that there has been violation of the principles of natural justice.

4. The petitioner has placed on record two replies dated 30.07.2019 and 13.08.2019. However, as learned counsel for the petitioner would fairly state these letters have not been presented to the authorities and would not form part of their records.

5. The impugned order is thus set aside in the interest of substantial justice to enable the assessment to be redone with proper input from both sides. For this purpose, the petitioner will appear before the Assessing Officer on Wednesday, the 5th of May, 2021 at 10.30 a.m. and will be heard by way of physical or virtual hearing, based on mutual convenience of the parties. No further notice need be issued in this regard. The petitioner will produce a copy of its replies referred to aforesaid as well as any other material in respect of its stand and after hearing the petitioner and considering the materials filed, let an assessment be framed de novo and orders passed on or before 04.06.2021. 6. This writ petition is disposed in the above terms. Connected miscellaneous petition is closed. No costs.

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Sd/-

Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.Assistant Commissioner (ST) (FAC)
Palladam-II Assessment Circle,
Palladam-641 664

2.State Tax Officer
Palladam-II Assessment Circle,
10, Pollachi Road,
Palladam-641 664

3.Commissioner of Commercial Taxes,
Chepauk, Chennai-05

+1cc to Mr.Lakshmikumaran, Advocate, S.R.No. 25876

+1cc to the Special Government Pleader(Taxes), S.R.No. 26396

W.P. No.10704 of 2021&
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VBM(CO)

GN(06/07/2021)

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