IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.07.2021

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM**

W.P.No.12480 of 2018
and
W.M.P.Nos.14622 & 14623 of 2018

Schwing Stetter India Pvt.Ltd.,
F-21, SIPCOT Park,
Irungattukottai,
Sriperumbudur Taluk – 602 117,
Rep.by its Sr.General Manager,
Mr.K.Sethuraman. ...Petitioner

Vs

1.Authority for Clarification and Advance Ruling
Office of the Principal Secretary / Commissioner of
Commercial Taxes, Chepauk, Chennai – 600 005.

2.The Assistant Commissioner (CT),
Sriperumbudur Assessment Circle,
No.4/109, Varadrajapuram, Chennai – 600 213. ... Respondents



**PRAYER** : Writ Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorari, calling for the records of the order bearing No.ACAAR No.6/2015 – 16 – Acts Cell-II/11019 / 2015 and dated 30.04.2018 passed by the respondent 1 and to quash the same.

For Petitioner : Mr.Karthik Sundaram

For Respondents : Mr.V.Veluchamy
Government Advocate

***ORDER***

The grievance of the petitioner is that they asked three clarifications in their applications and the applications were posted for hearing before the Competent Authority for Clarification and Advance Ruling and the petitioner was issued with a summon fixing the date of personal hearing on 10.04.2015 at 4.00 pm.

2. The learned counsel for the petitioner made a submission that the petitioner responded and submitted further application withdrawing two clarifications sought for and requested to clarify one issue alone. However, there was no progress in the said proceedings and surprisingly, the impugned order has been passed after three years, answering all the three questions. Further, it is contended that no opportunity was provided to the new Bench and therefore, the order was passed by the different Bench consists of three members, which is not valid in the eye of law. The Bench

which heard the arguments and issues had not decided the matter and the different Bench, who neither heard the matter nor opportunity was provided to the petitioner to submit their case, was passed final order that too after a lapse of three years. Thus, the principles of natural justice has been violated and this apart, the withdrawal application submitted by the petitioner for not pressing the two applications were also not considered. Under these circumstances, this Court is of the considered opinion that the matter is to be remanded back for fresh consideration.

3. Accordingly, the proceedings No.ACAAR No.6/2015 – 16 – Acts Cell-II/11019 / 2015, dated 30.04.2018 is quashed and the matter is remanded back to the first respondent for fresh consideration and pass orders on merits and in accordance with law by affording opportunity to the writ petitioner and the application for withdrawal is also to be considered by the first respondent in the manner known to law.



**S.M.SUBRAMANIAM,J.**

*Pns*

4. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**06.07.2021**

Speaking order/Non-speaking order
Index : Yes/No
Internet: Yes/No

*Pns*

To

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