IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.12814 of 2021
& WMP No.13606 of 2021

M/s.Covestro (India) Private Limited,
Represented by Executive, Taxation,
#10, Uthamar Gandhi Salai,
Nungambakkam High Road,
Nungambakkam, Chennai,
Tamil Nadu 600 034.

… Petitioner

Vs

The State Tax Officer,
Anna Salai Assessment Circle,
4th Floor, Greams Road,
Chennai - 600 006.

… Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the file of the respondent in TIN:33840641042/2015-16 dated 30.03.2021 and quash the same as being without jurisdiction and arbitrary and hence invalid and illegal.

For Petitioner : Mrs.L.Maithili

For Respondents : Mr.TNC.Kaushik,
Government Advocate

O R D E R

Mr.TNC. Kaushik, learned Government Advocate accepts notice for the respondents. He has been served with papers and is armed with instructions to proceed with the matter for final hearing at this juncture. Thus, by consent expressed by both learned counsel, seeing as the issue that arises for consideration is short, this Writ Petition is taken up for final disposal even at the stage of admission.

2. The challenge is to an order of assessment dated 30.03.2021 for the period 2015-16, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'). Though several grounds have been urged in support of the writ petition, the one that impresses is violation of principles of natural justice. The petitioner has been in receipt of a notice from the authority and has filed its reply on 22.12.2020 enclosing whatever particulars were available with it in support of its submission. In conclusion, they have stated that on account of the difficulties faced by the company at that juncture, bearing in mind the COVID-19 pandemic, 15 days additional time may be granted by the officer in order to enable them to file further particulars.

3. No time was granted by the authority and I am given to understand by the learned counsel appearing for the petitioner that the petitioner and the respondent officer were in touch telephonically with the further requirements that were sought for by the Assessing Officer to complete the assessment.

4. The consultant of the petitioner was affected by COVID-19, as a result that the petitioner was unable to procure and produce the details sought for by the officer. In support of this submission, medical records have been filed at page Nos.58 & 59 of the typed-set. This documents are not in dispute. The impugned order has come to be passed on 30.03.2021 without affording an opportunity of personal hearing.

5. This is an assessment which, in terms of Section 27 of the Act, which requires an effective opportunity of personal hearing of the assessee. Courts have consistently interpreted the phrase 'effective opportunity' to mean and include an opportunity of personal hearing as well. In this case, since admittedly the petitioner has not been heard in person, I am of the view that the impugned order has been passed in violation of principles of natural justice and without affording adequate opportunity of personal hearing to put forth its case. The impugned order is thus set aside.

6. Normally, I would incline to fix the date of hearing to enable the petitioner and the Assessing Officer to take forward the matter in a time bound manner. However, bearing in mind the difficulties in logistics that the Country is presently undergoing on account of the pandemic. Since the Registered Office of the petitioner is stated to be in Bangalore, an outer time-limit of sixteen (16) weeks is fixed for initiation of proceedings de novo, soliciting reply from the petitioner and

passing of order of assessment. Let the pre-assessment proposals be sent to it at the earliest in order to enable it to collate data for supply to the respondent.

7. With the aforesaid observations, the writ petition is allowed. Connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rkp

To

The State Tax Officer,
Anna Salai Assessment Circle,
4th Floor, Greams Road,
Chennai - 600 006.

+1cc to the Special Government Pleader(Taxes), S.R.No.28486

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AK-II(CO)
RLP(23/07/2021)