IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.17049 of 2020
and
WMP. No.21128 of 2020

M/s.Kaleesuwari Refinery Private Limited,
represented by its Director,
No.53 Rajasekaran Street,
Mylapore, Chennai-600 004. …Petitioner

Vs

1.The State of Tamil Nadu,
Represented by it Secretary,
Commercial Taxes Department,
Fort St. George, Chennai.

2.The Joint Commissioner,
Chennai North Commissionerate,
O/o Principal Commissioner of CGST and Central Excise,
Chennai-600 034.

3.The Assistant Commissioner (CT),
Washermenpet - II Assessment Circle,
Chennai. …Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari, calling for the records of the second respondent in his proceedings in C.No.V/15/31/2020 Ch.N-Adj., quash the order dated 31.08.2020 passed therein.

For Petitioner :Mr.P.V.Sudhakar

For Respondents:Mr.ANR.Jaya Prathap (for R1 & R3)
Government Advocate

Mr.M.Santhanaraman (for R2)
Senior Standing Counsel

O R D E R

Heard Mr.P.V.Sudhakar, learned counsel for the petitioner, Mr.ANR.Jaya Prathap, learned Government Advocate for R1 & R3and Mr.M.Santhanaraman, learned Senior Standing Counsel for R2.

2.The challenge is to order dated 31.08.2020, an order-in-original, passed in terms of the provisions of the Finance Act, 1994 levying service tax. The main ground agitated is the violation of principles of natural justice. Though sufficient opportunity for virtual hearing has been extended during the period of lockdown on account of the COVID pandemic, the petitioner brought to the notice of the respondents the difficulty faced by it in representing the matter as its counsel was locked down without the benefit of the relevant files. This factual position is not disputed by the respondents. In such circumstances, I am of the opinion that the petitioner should be granted an effective opportunity for putting forth its case. Thus, without expressing any opinion whatsoever on the merits of the matter and solely for the reason that the petitioner has not been heard prior to passing of the impugned order, the same is set aside.

3.The petitioner will appear before the respondents on 22.02.2021 at 10.30 a.m. or on a date as proximate to the aforesaid date as may be convenient to the parties mutually, to be intimated to the petitioner by way of hearing notice, and after hearing the petitioner and considering any material that may be presented, let orders of assessment be passed de novo within a period of four (4) weeks from date of hearing.

4.This writ petition is allowed in the aforesaid terms. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Commercial Taxes Department,
Fort St. George, Chennai.

2.The Joint Commissioner,
Chennai North Commissionerate,
O/o Principal Commissioner of CGST and Central Excise,
Chennai-600 034.

3.The Assistant Commissioner (CT),
Washermenpet - II Assessment Circle,
Chennai.

+1cc to M/s.B.Ravindran, Advocate Sr.8569
+1cc to Mr.M.Santhanaraman, Advocate Sr.8122
+1cc to the Special Government Pleader Sr.8543

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srg 02/03/2021