



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.19657 of 2021

and

W.M.P.No.20937 of 2021

Caterpillar India Private Limited
Earthmoving Equipment Division
(Represented by:- Authorised
Signatory and Manager of the Factory)
Melnallathur,
Tiruvallur - 602 004.

...Petitioner

-Vs-

The Joint Director of Industrial
Safety and Health
Tiruvallur 602 001.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue an order particularly in Writ of Certiorarified Mandamus, calling for records of the Respondent in proceeding No.(A)/828/2021 dated 26.08.2021, quash the same, direct the Respondent to pass a speaking order after considering the Petitioner's reply dated 16.07.2021 and after providing a personal hearing to the petitioner.

For Petitioner	:	Mr.Anand Gopalan for M/s.T.S.Gopalan and Co.
For Respondent	:	Mr.S.Arumugham Government Counsel

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



2. The petitioner herein challenges the order of the respondent rejecting the petitioner's objections to the show cause notice dated 28.06.2021. The writ petition has predominantly been filed on the ground that the petitioner's objections to the show cause notice have not been considered and that the impugned order dated 26.08.2021 is a non-speaking order.

3. When the respondent herein had issued a show cause notice on 28.06.2021, alleging contravention of certain provisions of the Factories Act and calling upon for explanation, the petitioner had sought for extension of time, through his letter dated 02.07.2021, which was acknowledged by the respondent on the same day. Thereafter, on 16.07.2021, the petitioner had given his objections to the show cause notice dated 28.06.2021, which objections were also acknowledged by the respondent on the same day. However, without reference to the objections of the petitioner dated 16.07.2021, the present impugned order seems to have been passed by making a reference to the earlier letter of the petitioner dated 02.07.2021 alone, wherein he had sought for extension of time. Apparently, the respondent, having acknowledged the petitioner's objections dated 16.07.2021, has ignored the same. In the mean time, the petitioner had also given another reply dated 30.08.2021, which was received by the respondent on 31.08.2021.

4. The very purpose for which a show cause notice is issued is to extend an opportunity to the concerned person to put forth their objections on the proposed action sought for. This purpose has now been defeated in the present impugned order.

5. It is needless to point out that there is a duty cast on the authorities to consider all the objections put forth pursuant to a show cause notice, before taking any further course of action. In the absence of the same, the order itself would amount to violation of principles of natural justice and hence, this Court may be justified in invoking its powers under Article 226 of the Constitution of India. However, if the respondent is given an opportunity to reconsider the petitioner's objections and thereafter take further course of action in accordance with law, the ends of justice could be secured.

6. In the light of the above observations, the impugned order dated 26.08.2021 is quashed and the matter is remitted back to the respondent herein for reconsideration. While doing so, the respondent herein shall consider all the objections put forth by the petitioner in his reply dated 16.07.2021 and 30.08.2021 and thereafter take further course of action and in case any order is passed therein, such an order shall be a speaking order.



7. Accordingly, the Writ Petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

hvk/ata

To

The Joint Director of Industrial Safety and Health,
Tiruvallur 602 001.

+1cc to M/s.T.S.Gopalan & Co, Advocate Sr No.47101
+1cc to the Government Pleader Sr No.47562

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and
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AJS (CO)
PR (07/10/2021)