IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.24597 of 2021
and
W.M.P.No.25864 of 2021

(Through Video Conferencing)

M/s. SLO Steels Limited,
Represented by its Director,
Mr.Pratap Kumar Rakesh,
403/D, T.H. Road,
Thiruvottiyur, Chennai - 19. ...Petitioner

Vs

The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Complex,
32, Elephant Gate Bridge Road,
Chennai - 3. ...Respondent

Prayer Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein her TIN 33511102895/2016-2017 dated 17.09.2021 to quash the same with the direction to redo the assessment after providing an opportunity to produce the relevant documents called for in their final personal hearing notice dated 05.08.2021.

For Petitioner : Mr.R.Kumar

For Respondents : Ms.Amirta Poonkodi Dinakaran
Government Advocate

ORDER

This Writ Petition is disposed after hearing the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. The petitioner has challenged the Impugned Assessment Order dated 17.09.2021 bearing reference in TIN.33511102895/2016-2017 on the ground that though the respondent had extended the benefit of personal hearing, the first notice fixed for personal hearing vide notice dated 05.08.2021 was received by the petitioner only on 12.08.2021 for a personal hearing to be held on 13.08.2021 and therefore the petitioner by a letter dated 17.08.2021 requested the respondent to give further time for personal hearing.

3. It is submitted that the respondent however re-fixed the personal hearing on 05.09.2021 but had not intimated the petitioner about the same and has thereafter proceeded to pass the impugned order dated 17.09.2021 against the petitioner.

4. By way of reply, the learned Government Advocate for the respondent submits that the personal hearing was extended on 05.08.2021 and thereafter the request of the petitioner was also entertained and the personal hearing was fixed on 05.09.2021 and therefore there cannot be any complaint as far as the violation of principles of natural justice as the petitioner was indeed given an opportunity of being heard.

5. The learned Government Advocate for the respondent further submits that the petitioner has an alternate remedy by way of an Appeal before the Appellate Commissioner under Sections 51 and 52 of the Tamil Nadu Value Added Tax Act, 2006 and therefore this writ petition is liable to be dismissed.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Government Advocate for the respondent.

7. A reading of the impugned order shows that it has been passed on merits. It appears that the order has been passed only on the ground that there was a long delay and therefore the case was adjourned to 05.09.2021.

8. Considering the fact that the order has been passed without hearing the petitioner in respect of the issue which has been pending considerably for a long period of time, the respondent should have awaited and given an opportunity to the petitioner to appear and make submissions.

9. Therefore the impugned order is liable to be set aside and the case is remitted back to the respondent to pass a fresh order by 17.01.2022. The petitioner is therefore directed to appear before the respondent for a personal hearing on 23.12.2021 at 11.30 AM. The respondent shall either take up the case on the said day or adjourn the case to a subsequent date after proper intimation about the next date of hearing. The respondent shall endeavour to pass a fresh order before the end of January 2022.

10. Accordingly, this Writ Petition stands disposed of with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

rgm/jas

To

The Assistant Commissioner (ST),
Thiruvottiyur Assessment Circle,
Integrated Commercial Taxes Complex,
32, Elephant Gate Bridge Road,
Chennai - 3.

+1cc to Mr.R.Kumar, Advocate SR. No.66953
+1cc to Special Government Pleader (Taxes) SR. No.66822

W.P.No.24597 of 2021
and
W.M.P.No.25864 of 2021

NRL (CO)
CT (04/01/2022)