BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1036 of 2019

and

W.M.P.(MD)No.870 of 2019

M/s.Senthamarai Marbles and Granites Pvt.Ltd.,
Represented by its Managing Director,
R.S.Tamil Selvan,
73A D.D.Main Road, Arapalayam,
Madurai. ... Petitioner

-Vs-

The Assistant Commissioner (ST)
West Veli Street Assessment Circle,
Commercial Taxes Building,
Dr.Thangaraj Road,
Madurai-20. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN: 33475025015/2014-15, dated 12.11.2018 and quash the same and consequently, direct the respondent to grant all the details required by the petitioner and permit the petitioners to submit their final objections to the pre-assessment notice and a personal hearing.

For Petitioner : Mr.M.Azeem

For Respondent : Mr.S.Dhayalan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner is a dealer registered with the respondent. The case on hand pertains to the assessment year 2014-15. The respondent has passed the impugned order calling upon the petitioner to pay a sum of Rs.1,54,57,870/- towards balance tax. Penalty has also been levied. Questioning the same, the writ petition has been filed.

3.The respondent has filed a detailed counter affidavit and the learned Government Advocate took me through the same and wanted this Court to sustain the impugned order.

4.I carefully considered the rival contentions and went through the materials on record.

5.The petitioner's assessment was finalised on deemed assessment basis on 30.10.2015. There was an inspection of the petitioner's business premises by the enforcement wing officials on 07.03.2016. Based on the same, pre-revision notice was issued dated 03.04.2018. The personal hearing was fixed on 06.06.2018. Since pre-revision notice relied on mismatch, the petitioner asked for a details relating to the same. The request to this effect was made by the petitioner on two occasions both in the preliminary reply dated 21.05.2018 as well as the subsequent letter dated 16.07.2018. The petitioner has specifically demanded that they should be given the mismatch details. The details were provided by the respondent only on 24.07.2018. Thereafter, the petitioner was entitled to submit an additional reply and also asked for personal hearing. But this vital opportunity was totally denied to the petitioner. After providing the mismatch details on 24.07.2018, the impugned order was straight away passed on 12.11.2018. This in my view is a clear violation of the principles of natural justice. On this sole ground, the order impugned in the writ petition is quashed. The matter is remitted to the file of the respondent. The petitioner is given three weeks time from the date of receipt of a copy of this order to offer their further explanation. Thereafter, the personal hearing will be afforded by the respondents and orders afresh will be passed.

6.The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Assistant Commissioner (ST)
West Veli Street Assessment Circle,
Commercial Taxes Building,
Dr.Thangaraj Road,
Madurai-20.

+1 CC to Mr.S.C.HEROLD SINGH, Advocate (SR-6343[F] dated 22/02/2021)

+1 CC to Mr.M.AZEEM, Advocate (SR-6273[F] dated 19/02/2021)

+1 CC to SPL GP (SR-6491[F] dated 22/02/2021)

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