IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.5305 & 5311 of 2020 &
WMP.Nos.6252, 6259 & 6261 & 6254 of 2020

Muthoot Exim Private Limited
Rep by its Manager / Authorized Person:
Ankit Nair,
Ashok Vatika, A3 No.1,
Gurusamy Road,
Chetpet, Chennai 31 ...Petitioner in both WPs

Vs.

The State Tax Officer
Kilpauk Assessment Circle
No.F50, First Avenue,
Anna Nagar East, Chennai-102 ..Respondent in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records in CST / 869245 / 2015-16 and CST / 869245 / 2016-17 dated 20.11.2019 respectively on the file of the respondent and quash the same as illegal against the principles of natural justice and direct the respondent to give opportunity of personal hearing to the petitioner and pass orders in accordance with law.

(In both WPs)
For Petitioner : Ms.L.Sweety
: for M/s.S.Bhargavi
For Respondent : Mrs.K.Vasanthamala
Government Advocate

COMMON ORDER

These writ petitions challenge orders of assessment passed under the provisions of the Central Sales Tax Act, 1956 (in short 'CST Act') in line with the procedure set out under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'TNVAT Act') in respect of the periods of assessment 2015-16 and 2016-17.

2. The petitioner, a firm, represented by its manager has challenged the assessments on the ground that there is violation of principles of natural justice insofar as (i) the petitioner has not been granted proper opportunity of hearing and (ii) the impugned orders of assessment was not served upon it.

3. Mrs.K.Vasantamala, learned Government Advocate, who appears for the respondents produces proof of service of the orders on the petitioner. To this extent, the contention of the petitioner that service of the orders has not been effected is found to be incorrect.

4. However, the submission that the petitioner has not been granted opportunity of hearing, holds some merit. A pre-assessment notice was issued to the petitioner on 30.09.2019, wherein the respondent proposes to deny the exemption claimed on stock transfer.

5. Dual opportunity is set out under the same notice for the petitioner

to file objections to the proposals with documentary evidence within 15 days from the date of receipt of the notice and to appear on any working day within the aforesaid 15 days. The aforesaid opportunity has been extended under threat of confirmation of the proposal based on records.

6. In response, the petitioner has written back on the same date asking for 15 days time to submit the Forms. This letter has, admittedly, been received by the Assessing Officer, who has acknowledged the same. Learned Government Advocate would also fairly confirm receipt of this request.

7. Despite this, the Assessing Authority has merely proceeded to pass the impugned orders of assessment on 20.11.2019 without either intimating the acceptance or rejection of the request for adjournment and most importantly, without affording an opportunity of personal hearing fixing the date and time, as required by the statute and several circulars that have been issued by the Commissioner of Commercial Taxes.

8. In my considered view, the violation of principles of natural justice as aforesaid would vitiate the assessments. This is specifically for the reason that the officer has, in the impugned order, stated that upon receipt of pre-assessment notice the petitioner has neither filed objections nor sought any adjournment, the latter seen to be contrary to the materials on record.

9. In light of the aforesaid discussion, the impugned orders are set aside and these writ petitions are allowed. No costs. Connected miscellaneous petitions are closed.

09.11.2022

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Index : Yes
Speaking Order

To

The State Tax Officer
Kilpauk Assessment Circle
No.F50, First Avenue,
Anna Nagar East, Chennai-102

DR.ANITA SUMANTH, J.

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