(2015) 10 MAD CK 0090

In the Madras High Court

Case No : W.P. Nos. 27971 to 27973 of 2015 and M.P. No. 1 of 2015

Sree Durga Metal & Alloys APPELLANT

Vs

The Assistant Commissioner (CT) RESPONDENT

Date of Decision : 15-10-2015

Acts Referred:

Citation : (2015) 10 MAD CK 0090

Hon'ble Judges : R. Mahadevan, J.

Bench : Single Bench

Advocate : R. Senniappan, for the Appellant; Kanmani Annamalai, AGP(T), for the Respondent

Judgement

R. Mahadevan, J.—Challenging the orders of assessment dated 30.06.2015 passed by the respondent individually for the assessment year 2012-13 relating to TIN No. 33746200555 and for the assessment years 2012-13 and 2013-14 relating to TIN No. 33746206666, the petitioner firm has come forward with these writ petitions.

2. The petitioner is a partnership firm and it is engaged in the Manufacture of Alloy Wheels for Four and Two Wheelers. The petitioner firm is also registered under the provisions of the Tamil Nadu valued Added Tax, 2006 and The Central Sales Tax Act, 1956 as an assessee originally with the registration certificate number TIN 33746200555 which got cancelled from 09.01.2013 as the petitioner firm stopped business. The petitioner has got registration certificate subsequently with the registration numbering TIN 33746206666. The petitioner has been filing returns regularly declaring the turnover which were in fact accepted by the respondent. While so, according to the petitioner, after inspection which was carried out on 23.07.2013 and 24.07.2013, the respondent issued a notice alleging that the petitioner firm filed incorrect returns declaring taxable turnover as exempted turnover in respect of assessment year 2012-13 and 2013-14 and accordingly, the respondent, issued three notices on 14.03.2014 relating to the assessment year 2012-13 [covering the period

between April 2012 and December 2012 and January 2013 and March 2013] and in respect of assessment year 2013-14 respectively. Challenging the above said notices, the petitioner filed W.P. Nos. 11454 to 11456 of 2014 and this court by order dated 22.04.2014 directed the assessing authority to consider the objections of the petitioner and thereafter, pass appropriate orders in consideration of the documents relating to the bank transactions and thereafter pass appropriate orders. Thereafter, according to the petitioner, he filed all the relevant documents. Now, the grievance of the petitioner is that though he produced all the relevant documents, the respondent without considering the same, passed impugned orders in a routine fashion. Thus, the petitioner is now before this court with these writ petitions challenging the said assessment orders.

3. Heard both sides and also perused the records carefully.

4. Admittedly, in the instant case, before passing the impugned orders of assessment, the objection letter as furnished by the petitioner on 13.01.2015 and received by the authority on 18.01.2015, has not been considered by the assessing officer. The specific prayer made by the petitioner with regard to supply of certain copies of documents was also turned down by the officer concerned and no such reference is made in the impugned order.

5. The learned Additional Government Pleader (Taxes), appearing for the respondent would, on instructions, fairly submit that though the objection dated 13.01.2015 was received from the petitioner by the respondent, inadvertently, the same was not considered by him.

6. In view of the above fair submission made by the learned Additional Government Pleader, this court is of the view that the impugned order is liable to be set aside on the sole ground that the objection letter of the petitioner was not at all taken into consideration by the assessing officer before passing the impugned order and that no reason has been assigned in the impugned order for having refused to furnish the copies of the documents sought for in the objection letter.

7. In the result the writ petition is disposed of. The impugned order is set aside and the matter is remitted back to the respondent for passing appropriate orders afresh. Before passing orders as directed hereinabove, an opportunity of being heard be given to the petitioner. Further, the assessing authority is directed to furnish all the relevant documents to the petitioner before passing the order of assessment at the cost of the petitioner. The petitioner shall file his reply and objections, if any, within a period of two weeks from the date of receipt of a copy of this order and after receiving elaborate reply as well as the objections from the petitioner, necessary order be passed on merits and in accordance with law within a period of six weeks thereafter. If the petitioner fails to comply any of the directions now issued, the respondent shall pass orders within the time as directed. No costs. Consequently, connected MP is closed.

