

(2015) 03 MAD CK 0139

In the Madras High Court

Case No : Writ Petition(MD). Nos. 2609 to 2611 of 2013 and M.P.(MD). No. 1 of 2013

Udaya Match Works

APPELLANT

Vs

The Assistant Commissioner (CT) 4C

RESPONDENT

Date of Decision : 05-03-2015

Acts Referred:

Citation : (2015) 03 MAD CK 0139

Hon'ble Judges : B. Rajendran, J.

Bench : Single Bench

Advocate : D. Sakkaravarthi, for the Appellant; A. Muthukaruppan, Government Pleader, Advocates for the Respondent

Final Decision : Disposed off

Judgement

B. Rajendran, J.—A perusal of the entries papers would through light upon this Court that this is the third round of litigation by the petitioner. The petitioner has successfully dragged on the matter to the extent pointing out the lacuna and the loopholes done by the respondent in these Writ Petitions also. In the earlier round of litigation, this Court has clearly directed the authorities concerned to pass appropriate orders, after giving reasons considering the documents produced by the petitioner, which the respondent has filed to do so resulting in filing of these Writ Petitions.

2. The learned counsel for the petitioner pointed out in the orders impugned in these Writ Petitions no reasons have been given by the respondent.

3. Per contra, the learned counsel appearing for the respondent submitted that the petitioner was directed to produce the supporting documents, but he has not produced any documents in support of his claim nor given explanation. Hence the impugned orders came to be passed by the respondent.

Heard both sides.

4. By consent, these Writ Petitions itself are taken up for final disposal.

5. Before going into the case, it is relevant to extract paragraph No. 4 of the order found in WP(MD)Nos. 12587 to 12589/2009 dated 21.9.2011.

"4. It is also seen in the representation that the formula adopted by the Assessing Authority for the purpose of imposing 1:6 ratio is irrational, since there was no test done in the factory that while arriving at such formula, no wastage was taken into consideration and the quality of the material was not taken into consideration and with the above said details, as per the direction of the Division Bench, the petitioner has approached the Assessing Authority once again, who has passed the impugned orders, which are challenged in these Writ Petitions." In the said order, this Court has clearly held that the order will be passed after giving reasons.

6. The learned counsel appearing for the petitioner, in support his contention, has relied upon a judgment reported in Steel Authority of India Ltd. Vs. Sales Tax Officer, Rourkela-I Circle and Others, cases to emphasis the fact that the reason is the heart-beat of every conclusion; it introduced clarity in an order and without the same it becomes lifeless. Raj Kishore Jha Vs. State of Bihar and Others, . In the said judgment, paragraph No. 14, it is held as follows:-

"Even in respect of administrative orders Lord Denning, M.R. in Breen Vs. Amalgamated Engg. Union (1971) 1 All ER 1148, observed, "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. Vs. Crabtree (1974) ICR 120 (NIRC) it was observed; "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance." 7. Unfortunately, in the orders impugned in these Writ Petitions reasons have not been clearly given except to state that the petitioner has not produced any documents to support his claim. At best, the authorities could have mentioned that no reasons have been attributed by the petitioner to support his claim. But nothing has been mentioned in the orders impugned. Therefore, on this simple ground, the orders impugned in these Writ Petitions stand set aside with a limited direction to the respondent that they will pass appropriate orders after taking into consideration the earlier explanation submitted by the petitioner. In short, the petitioner will not be

permitted to produce any more documents. Whatever the documents and explanations already offered by the petitioner will be considered in detail and orders will be passed, accordingly, making it clear that the authorities shall not even give a personal hearing to the petitioner. While doing so, the authorities shall pass appropriate orders taking into consideration the judgment of the Supreme Court cites supra that the reason for passing the impugned order is the heartbeat of every conclusion, they will pass a quietus to these matters once for all. Such exercise has to be done within a period of two months from the date of receipt of a copy of this order.

With the above direction, these Writ Petitions stand disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.