IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 17.4.2015.

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.11115 of 2015
and
M.P.No.1 of 2015

M/s.K.C.S.Hardwares
Rep. by its Partner C.Suresh Kumar
No.97/3 M.P.R. Nagar Main Road
Sakkarapuram Gingee
Villupuram District. Petitioner

vs.

The Commercial Tax Officer
(FAC) Gingee
Gingee Villupuram District. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records relating to the impugned order in TIN: 33454741786/2013-2014 dated 21.10.2014 (served on the petitioner on 21.3.2015) issued by the respondent and quash the same as violative of principles of natural justice, contrary to the mandatory requirement provided under Sec. 22(4) of the TNVAT Act.

For Petitioner : Mr.K.Jayachandran
For Respondents : Mr.S.Kanmani Annamalai, AGP(T)

ORDER

This writ petition has been filed by M/s.K.C.S.Hardwares challenging the impugned order issued by the respondent, on the sole ground that the order in question ought not to have been passed as it has been in total violation of proviso to section 24(2) of the Tamilnadu Value Added Tax Act, 2006 which provides for an opportunity of being heard.

2. Mr.S.Kanmani Annamalai, learned Additional Government, who accepts notice for the respondent, submitted that the respondent has specifically mentioned in the impugned order issued to the dealer that to the notice issued calling for objections the dealer has not filed any objections.

3. Even if it is presumed that the respondent has issued notice, admittedly, in the present case, the impugned order does not show that the petitioner was given an opportunity of being heard as per section 22(4). Therefore, on the sole ground the impugned order has to go.

4. The learned Additional Government Pleader agrees to the limited extent that the order does not whisper about the compliance of the conditions mentioned under section 22(4) which says that the opportunity of being heard should be given. He further submitted that the matter may be remanded to the respondent to consider the petitioner's grievance after giving reasonable opportunity to the petitioner.

5. Recording his statement, this court, finding that the petitioner having not been given opportunity of being heard, under the proviso to 22(4) of the Tamil Nadu Value Added Tax Act, 2006, is inclined to set aside the impugned order. According the same is set aside. While doing so, the matter is remanded to the respondent. Needless to mention that the respondent after issuing notice is directed to give opportunity of personal hearing and pass orders on merits and in accordance with law within a period of three months from the date of receipt of copy of this order.

6. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

ssk.

-s/d-
Assistant Registrar(LA)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer
(FAC) Gingee
Gingee Villupuram District.

+ 1 cc to Mr.K.Jayachandran, Advocate SR 21026

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 21184

gj(co)
prk6/5

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