IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 23.4.2015.

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.12074 of 2015
and
M.P.No.1 of 2015

Syspro Automation
(Represented by its Partner)
No.9, 2nd Main Road, Extension,
Nehru Nagar,
Industrial Estate,Perungudi,
Chennai 600 096. ... Petitioner

vs.

1 The Assistant Commissioner(CT)
Sholinganallur Assessment Circle
Plot No.141 1st Main Road
Burma Colony Perungudi
Chennai 600 096

2 Commissioner of Commercial Taxes
Chepauk Chennai 600 005

3 Government of Tamil Nadu
Rep by its Secretary
Commercial Taxes Department
Fort St. George
Chennai 600 009 ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records relating to the order passed by the 1st respondent in CST/771634/2011-12 dated 20th March 2015 and quash the same.

For Petitioner : Mr.R.Raghavaramabadran

For Respondents : Mr.V.Haribabu,
Additional Government Pleader (T)

ORDER

This writ petition has been directed against the impugned order, by Syspro Automation represented by its Partner.

2. Learned counsel appearing for the petitioner would submit that the act of the first respondent is in violation of principles of natural justice and therefore, the same is liable to be quashed on that sole ground. Adding further, he would submit that the second respondent also in Circular No.7/2014 BB1/3589/2014 dated 3rd February 2014 (circular) issued clear instructions to assessing officers including the first respondent to necessarily

(a) issue a notice calling upon objections within a reasonable time of 15 days;

(b) pass a speaking order based on meticulous examination of the objections;

(c) grant an opportunity of personal hearing irrespective of whether the dealer has opted for personal hearing or not;

as the impugned order has been passed in total violation on the basis of the three mandatory conditions stipulated in the said circular dated 3rd February 2014, the impugned order has to necessarily bound to go.

3. Mr.V.Haribabu, learned Additional Government Pleader, who accepts notice for the respondents, is unable to explain to this court as to whether the aforesaid three conditions mentioned in the circular dated 3rd February 2014 issued by the second respondent have been duly complied with. Therefore, it goes to show that the impugned order has been passed violating all the conditions and also beyond the time limit set out in section 22(2) of the Act,

4. Be that as it may, as I mentioned, all the conditions mentioned in the above said circular having been not complied with, the impugned order is liable to be set aside and accordingly, the same is set aside. The writ petition is allowed. Needless to mention that it is open to the respondents to proceed afresh in accordance with law. No costs. The connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

ssk.

To

1 The Assistant Commissioner(CT)
Sholinganallur Assessment Circle
Plot No.141 1st Main Road
Burma Colony Perungudi
Chennai 600 096

2 Commissioner of Commercial Taxes
Chepauk Chennai 600 005

3 The Secretary,
Government of Tamil Nadu
Commercial Taxes Department
Fort St. George
Chennai 600 009

+1cc to Mr.Lakshmikumaran, Advocate SR.NO.22794
+1cc to The Special Public Prosecutor(Taxes)
High Court, Madras SR.NO.22483

W.P.No.12074 of 2015

JSV(CO)
rvr 19/05/2015