IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13239 of 2015

Tvl.Essa Garments
represented by its Proprietor
Mr.S.Sadiqali
No.44(2), 45(2), Venkatesaiya Colony
Kangeyam Road
Tirupur .. Petitioner

-vs-

The Commercial Tax Officer
Bazaar Circle
Tirupur .. Respondent

Petitions under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records on the files of the respondent in CST No.973968/2012-13 dated 16.2.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner :: Mr.R.Senniappan

For Respondent :: Mr.A.N.R.Jaya Prathap
Government Advocate

ORDER

This writ petition has been filed against the cryptic order passed by the Commercial Tax Officer, Bazaar Circle, Tirupur on the sole ground that the respondent, violating the principles of natural justice, without giving any notice whatsoever, has passed the impugned order, finally assessing the total and taxable turnover at Rs.81,26,22,932.00 for the year 2012-13 under the Central Sales Tax Act, 1956 and demanded tax at Rs.15,66,596/- after adjusting the input tax credit. It is also the further claim of the petitioner that when it is a settled law that if the order of rectification enhances the tax demand over and above the original order, the authority has to give notice in accordance with Section 84 of the Tamil Nadu Value Added Tax Act, 2006 to the affected dealer. This has been reiterated by this Court in the judgment in V.Selladurai v. Chief Commissioner of Income Tax (OSD) and another, (2007) 295 ITR

303. When the petitioner was originally assessed under the Central Sales Tax Act for the year 2012-13 on 30.1.2015 taking the input tax credit to the extent of Rs.38,55,504.00, the impugned order reversing the input tax credit to the tune of nearly Rs.15 lakhs without giving any notice or opportunity to the petitioner is liable to be set aside.

2. Mr.A.N.R.Jaya Prathap, learned Government Advocate takes notice on behalf of the respondent.

3. A perusal of the five line impugned order does not whisper about the issuance of notice whatsoever to the petitioner. The learned Government Advocate for the respondent was unable to reply literally, as the impugned order does not indicate the issuance of any notice. Therefore the impugned order, which has been passed in violation of the Section 84 of the Tamil Nadu Value Added Tax Act mandating an opportunity of personal hearing, is set aside and the matter is remitted back to the respondent to pass a speaking order after giving an opportunity of personal hearing to the petitioner. The writ petition stands allowed. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-

Assistant Registrar

/true copy/

Sub-Assistant Registrar

ss

To

The Commercial Tax Officer
Bazaar Circle
Tirupur

+1 CC to Mr.R.Senniappan Advocate. SR.NO. 24851
+1 CC to the Special Govt Pleader Taxes. SR.NO. 24153

CO-RSJ
JD 19/05/2015

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