IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2015

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.17950 of 2015
and M.P.No.1 of 2015

Tvl. Hindustan Hardwares [Petitioner]
Rep. by its Managing Partner
D.Natarajan
No.356 Patel Road Coimbatore-9.

Vs

The Deputy Commissioner (CT)
Fast Track Assessment Circle-I
Coimbatore-18. [Respondent]

PRAYER : The Writ petition is filed under Article 226 of the Constitution of India praying for a Writ of certiorari, calling for the records on the file of the respondent in TIN No. 33131980178/2014-15 dated 25.05.2015 and quash the same as illegal without jurisdiction and against the Principles of Natural Justice.

For Petitioner : Mr.A.Chandrasekaran

For Respondent : Mr.V.Haribabu, AGP(T)

O R D E R

Heard Mr.A.Chandrasekaran, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition is taken up for final disposal.

2. This writ petition has been filed by Tvl. Hindustan Hardwares, represented by its Managing Partner, D.Natarajan, challenging the correctness of the impugned order passed by the Deputy Commissioner (CT), Fast Track Assessment Circle-I, Coimbatore-18.

3.1 Learned counsel for the petitioner would submit that the impugned order passed by the respondent is contrary to the provisions of the scheme of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as TNVAT Act) and the same is unsustainable inasmuch as it has been passed by invoking Section 27 of the TNVAT

Act for the assessment year 2014-15 without passing the original order of assessment accepting the petitioner's returns under Section 22(2) of the TNVAT Act and without waiting for the deemed completion of the assessment under Section 22(2) of the TNVAT Act for the assessment year 2014-15.

3.2 Adding further, learned counsel for the petitioner would submit that the impugned order is liable to be set aside on the ground of non granting of personal hearing to the petitioner.

3.3 Apart from that, according to the learned counsel for the petitioner, after receipt of the notice dated 23.04.2015, which was served on them on 04.05.2015, calling upon the detailed explanation/objection within seven days, the petitioner has sent a letter dated 08.05.2015, even before the expiry of seven days, seeking time till 30.06.2015. Surprisingly, the respondent, who has also received the letter seeking time till 30.06.2015, without even rejecting the request of the petitioner, has wrongly passed the impugned order dated 25.05.2015, resultantly, the petitioner was denied an opportunity of personal hearing. Had there been sufficient time given till 30.06.2015, the petitioner would have been in a position to place the best available documents, however, the respondent, by not even considering for grant of reasonable time, passed the impugned order, causing grave prejudice to the petitioner.

4. On a plain reading of the notice dated 23.04.2015 calling upon the petitioner to submit their reply and the letter of the petitioner dated 08.05.2015, which was submitted before the expiry of 7 days time given by the respondent, would clearly show that the respondent ought to have considered the minimum request of grant of extension of time for submitting their reply. But, the respondent has not shown such indulgence to the petitioner. That apart, the petitioner was not even given an opportunity of personal hearing before passing the impugned order.

5. In view of the above, the impugned order dated 25.05.2015 passed by the respondent is set aside. The writ petition is allowed. The respondent is directed to reconsider the matter afresh and pass orders on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner. The petitioner is also directed to submit a detailed reply within a week from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/
Sub Asst. Registrar

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To

The Deputy Commissioner (CT)
Fast Track Assessment Circle-I
Coimbatore-18.

1 cc to Spl.Government Pleader (Taxes), Sr. 30850
1 cc to Mr.A.Chandrasekaran, Advocate, sr. 30732

MSM (CO)
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