IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.20685 of 2015
AND M.P.NO.1 OF 2015

M/s.Paramount Leather and Co.,
rep.by its Proprietor,
No.47/396, Malayalam Street,
Fort, Vaniyambadi - 635 751. ... Petitioner

Vs.

Commercial Tax Officer, (FAC),
Vaniyambadi Assessment Circle,
Vaniyambadi,
Vellore District. .. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of Certiorarified Mandamus to call for the records of the respondent and quash the assessment proceedings in TIN No.33374641532/2012-13 dated 09.01.2015 and direct the respondent to pass fresh orders by providing an opportunity of personal hearing.

For Petitioner : Mr.C.Baktha Siromani

For Respondent : Mr.S.Kanmani Annamalai,
Addl.Govt.Pleader (Taxes)

ORDER

This writ petition has been filed by M/s.Paramount Leather and Company represented by its Proprietor challenging the impugned order passed by the Commercial Tax Officer (FAC), Vaniyambadi Assessment Circle in TIN No.33374641532/2012-13 dated 9.1.2015 on the sole ground that when the petitioner, being a registered dealer under the TN VAT Act on the file of the respondent and doing leather business, he has received a notice from the respondent stating that they have taken purchase figures from the Department Website, but the vendors have not paid the tax properly. Without furnishing any details like name of the sellers, commodity, invoice number and value of the purchase taken from the Department Website, which the respondent is bound to furnish to the petitioner, a reply was sought for from the petitioner. However, the petitioner replied to the said notice stating about the mismatch of the particulars, which the respondent has noted from the Department Website. Thereafter, without affording any opportunity of personal hearing to the petitioner, the respondent has passed the impugned order.

2. The grievance of the petitioner is two fold, firstly, the notice is issued by the respondent to the petitioner, without mentioning any necessary details like name of the sellers, commodity, invoice number and value of the purchase taken from the Departmental Website and secondly, the respondent has committed mistake in passing the impugned order dated 9.1.2015 under Section under Section 22(4) of the TN VAT Act as under the said provision, the dealer shall be given a reasonable opportunity of being heard. When these two glaring mistakes have been committed by the respondent in passing the impugned order, the impugned order is liable to be interfered with.

3. Mr.Kanmani Annamalai, learned Additional Government Pleader, who takes notice on behalf of the respondent, is unable to support the impugned order. The reason is, when the petitioner after receipt of the notice from the respondent submitted a long and detailed reply dated 21.11.2014, which is also supported by proof of acknowledgment it is not known how the respondent can say that the petitioner has not filed his reply. That shows not only the non-application of mind, but also the failure on the part of the respondent, as a quasi judicial officer in not properly furnishing the requisite details like invoice number, commodity, quantity and value of the purchases from the Department Website, without which it is not possible for the petitioner to give a suitable reply. That apart, as envisaged under Section 22(4) of the TN VAT Act, the respondent has not even issued any notice calling upon the petitioner for personal hearing.

4. For all the above reasons, the writ petition deserves to be allowed and the same is allowed accordingly and the impugned order is set aside. Needless to mention that as the matter is remitted back, the respondent shall furnish all the details mentioned above to the petitioner and also after receiving the further reply from the petitioner, in addition to the one filed, shall provide personal hearing to the petitioner as per section 22(4) of the TN VAT Act and on considering the same, shall pass appropriate orders in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

Commercial Tax Officer, (FAC),
Vaniyambadi Assessment Circle,
Vaniyambadi,
Vellore District.

+1 cc to Mr.C.Bakthasiromani, Advocate sr.34995
+1 cc to the Special Government Pleader Taxes sr.35057

W.P.No.20685 of 2015

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