IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.22496 of 2015
and
M.P.No.1 of 2015

M/s. Shriram EPC Limited
Rep. by its Chief Financial Officer
1st Floor Rajah Annamalai Building
No.18/3, Rukmani Lakshmipathy Road
Egmore Chennai-8. ... Petitioner

Vs

The Commercial Tax Officer
Egmore Assessment Circle
No.88 Taluk Office Building
Spur Tank Road Chetpet
Chennai-31. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records of the respondent in his proceedings TIN/ 33640541242/2011-12 and quash the proceedings dated 30.03.2015 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes) for the respondent.

2. The petitioner has come forward with this writ petition challenging the assessment order passed by the respondent dated 30.03.2015.

3. The petitioner, being the manufacturer and dealer of windmills, is an assessee on the files of the respondent herein. After completing the assessment for the assessment year 2011-12, the respondent issued a notice on 21.05.2014. Upon receipt of the same, the petitioner filed a preliminary reply on 12.08.2014 stating their objections and enclosing relevant documents, wherein it was also specifically requested that an opportunity of personal hearing to substantiate their contentions may be given. In response to the said interim reply dated 12.08.2014, the respondent issued a revised notice on 18.03.2015, thereby conceding with the request of the petitioner for affording personal hearing on 30.03.2015, on which date, according to the learned counsel for the petitioner, the petitioner appeared before the respondent without fail. According to the petitioner, they have also filed their objections on 28.03.2015. Surprisingly, the impugned order dated 30.03.2015 was handed over to the petitioner on the date of personal hearing, wherein, though the notices issued and the replies filed by the petitioner were referred, without considering the objections and without affording an opportunity of personal hearing, the respondent confirmed the proposal. Hence, challenging the same, the petitioner is before this Court.

4. Considering the submissions made by the learned counsel on either side, I am of the view that it is a clear case of violation of principles of natural justice. What is expected from the officer to act upon, as contemplated under the Act, has not been complied with by the respondent. The petitioner was directed by the respondent to appear on 30.03.2015 for affording personal hearing. Admittedly, the representative of the petitioner Company was present, but he was forced to receive the impugned order, which was already passed. For this reason alone, the impugned order cannot be sustained.

5. Accordingly, the impugned order dated 30.03.2015 passed by the respondent is set aside. The respondent is directed to provide an opportunity of personal hearing to the petitioner within 4 weeks from today by fixing a date and intimate the same well in advance, on which date, the petitioner shall appear without fail. After affording an opportunity of personal hearing to the petitioner, the respondent shall consider the objections already filed by the petitioner and thereafter pass appropriate orders on merits and in accordance with law, within a period of four weeks thereafter.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Egmore Assessment Circle
No.88 Taluk Office Building
Spur Tank Road Chetpet
Chennai-31

+1cc to Mr.B.Raveendran, Advocate, S.R.No.42636
+1cc to the Special Government Pleader(Taxes), S.R.No.42591

W.P.No.22496 of 2015

CTK(CO)
CA(01/09/2015)