IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2646 of 2015
and
M.P.Nos.1 & 2 of 2015

N.Kumaraguru ...Petitioner

Vs.

The Commissioner Tax Officer,
Arni,
Tiruvannamalai District. ...Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN:33024563494/ 2013-14 dated 12.12.2014 and to quash the same.

For Petitioner : Mr.S.Rajasekar

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

O R D E R

With the consent on either side the Writ Petition itself is taken up for final disposal at the admission stage.

2.The petitioner has come forward with the aforesaid Writ Petition challenging the impugned assessment order dated 12.12.2014 on the ground that no opportunity of personal hearing was granted to the petitioner.

3.According to the petitioner he is engaged in the business of electrical goods works and a registered dealer under Tamilnadu Value Added Tax Act, 2006.

4.The learned counsel for the petitioner submitted that the petitioner requested the Assessing Officer to grant two months time to file his objection to the proposal. The respondent was extended time upto 27.11.2014 and invited his personal appearance on 27.11.2014, but the petitioner has filed another letter on the same day, seeking further 10 days time to file his objection and he was admitted at CMC Hospital, Vellore on 25.11.2014 for taking treatment. So he did not file his objection. Hence, the respondent has passed the assessment order against the petitioner.

5.The learned counsel for the petitioner prays to quash the impugned order only on the ground that no opportunity has been given to the petitioner and the tax has been levied at Rs.2,28,520/. He would also submit that the petitioner is willing to pay 10% of the tax amount and he may be given opportunity to put forth his case.

6.The learned counsel for the respondent submitted that a reading of the impugned order makes it clear that the petitioner has not filed objections and hence the authority proceeded to pass the order.

7.Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the documents available on record.

8.Since the order passed by the authority cannot be said to be a cryptic one and as the petitioner did not avail the opportunity to put forth his submissions and the petitioner states that he has got all the necessary documents with him and willing to approach the authority concerned, I direct the respondent to give opportunity to the petitioner, who shall appear before the respondent on 05.03.2015.

9.It is open to the petitioner to make verbal as well as written submissions together with documents, if any and shall deposit 10% of the amount, as agreed by the petitioner before the authority concerned, before the end of this month to have personal hearing and to make his objections on 05.03.2015.



10.In the result, the Writ Petition is disposed of and the impugned order is set aside on the above conditions. Consequently connected miscellaneous petitions are closed. No costs.

11. In case the petitioner fails to pay the 10% of the amount, as agreed by the petitioner within a period of twelve weeks, the original order impugned in the Writ petition shall stand restored and the respondent is empowered to initiate appropriate action in accordance with law.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner Tax Officer,
Arni,
Tiruvannamalai District.

1 CC to M/s. R.Hemalatha, Advocate SR.No. 5696

1 CC to the Spl.Government Pleader, SR.No. 5814

W.P.No.2646 of 2015
and M.P.No.1 & 2 of 2015

BUR (CO)
PSI (02.03.2015)