IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2737 of 2015
And
M.P.No.1 of 2015

Tvl.Sri Murugan Services [Petitioner]
rep by its Proprietor M.Jegan Mohan
No.198, Venkatesapuram Perambalur

Vs

The Commercial Tax Officer
Ariyalur Assessment Circle, Ariyalur. [Respondent]

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the respondent herein in TIN 33773603897/2011-12 dated 02.01.2015 and quash the same as illegal invalid and against the provisions of Section 22(4) of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.V.Haribabu, GA(T)

O R D E R

The petitioner has come forward with this writ petition challenging the order of the respondent dated 02.01.2015.

2. The only point canvassed in this writ petition was that the petitioner was not given an opportunity before passing the impugned order.

3. The learned Government Advocate submitted that the respondent has no objection for giving personal hearing to the petitioner in the month of March, 2015 and thereafter, a time limit may be fixed for passing final orders.

4. In the decision of the Hon'ble Apex Court reported in 14 TNCTJ 220 (DB) (Tvl.SRC Projects Pvt. Ltd., Vs. The Commissioner of Commercial Taxes and another), the Hon'ble Apex Court has held that when there is a revisional assessment, there should be a reasonable opportunity to the assessee and if the same is not given, the order will have to go. As far as the case in hand is concerned, an opportunity of personal hearing was not given to the petitioner before passing the impugned order. Hence, I am of the view that the

same is liable to be set aside and the matter has to be remitted to the Authority concerned for passing fresh orders, after affording a reasonable opportunity to the petitioner.

5. Taking note of the decision of the Hon'ble Apex Court cited supra, leaving open all the points to be raised before the Authority concerned by the petitioner, I set aside the impugned order dated 02.01.2015 passed by the respondent only on the ground that no opportunity has been given to the petitioner. The petitioner is directed to appear before the Authority concerned on 02.03.2015, on which date, he is entitled to make his verbal and written submissions, if any and also file documents in support of his contention. In case the petitioner fails to avail this opportunity on 02.03.2015, it is open to the Authority to pass orders on merits based on the available records, within a period of four weeks thereafter. However, this Court makes it clear that if the petitioner fails to avail the opportunity, he should not contend that no opportunity is given.

6.This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar
Dated:13.2.15

True Copy

Sub Assistant Registrar

To

The Commercial Tax Officer
Ariyalur Assessment Circle, Ariyalur.

+1 cc to Mr.A.Chandrasekar, Advocate,SR.6194

+1 cc to the Special Government Pleader,SR.6137.

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