

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.2816 and 2817 of 2015 and

M.P.Nos.1 and 1 of 2015

Nikee Enterprises
rep. By its Proprietrix,
Deepa D Davda,
642, Easwaran Chettiar Lay-out,
Tatabad, Coimbatore 641 012...Petitioner in both the Writ Petitions

Vs

The Assistant Commissioner (CT)
Ram Nagar Assessment Circle,
Coimbatore ...Respondent in both the Writ Petitions

Prayer : Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari by calling for the records on the files of the respondent herein in CST No.582333/2006-2007; 2007-2008 respectively dated 02.01.2015 and to quash the same.

For Petitioner :Mr.N.Inbarajan

For Respondent :Mr.V.Haribabu
Government Pleader (T)

Additional

C O M M O N O R D E R

By consent the Writ Petitions are taken up for final hearing at the admission stage itself.

2.The petitioner has come forward with the afore said writ petitions. The petitioner has approached this Court earlier by W.P.Nos.8222 and 8223 of 2014 on the ground that the petitioner was not given opportunity of being heard and this Court has passed an order and the relevant portion of the order reads as follows:-

" ...5. Considering the fact that the impugned orders were passed without providing an opportunity of hearing to the petitioner, which is in violation of the principles of natural justice and without even considering the objection filed by the petitioner, this Court has no hesitation to set aside the impugned order. Accordingly the impugned orders are set aside and Writ petitions are allowed. The respondent is directed to consider the objection filed by the petitioner and pass fresh orders on merits in accordance with law."

3. On 17.11.2014, the respondent issued a notice asking the petitioner to appear in person on 26.11.2014 in terms of the order of this Court. The date was fixed for hearing and thereafter, an opportunity was given to the petitioner to file their objections in detail and the objections have been filed on 27.01.2014, which has been referred to in the impugned order dated 02.01.2015. By means of a non-speaking order, the respondent has rejected to comply with the directions in the earlier Writ petition and the respondent counsel is unable to refute.

4. For the sake of convenience, the relevant portion of the impugned order is extracted as follows:-

" Aggrieved against the order, the dealer preferred Writ Petition and High Court in the reference second cited above to afford a personal hearing to pass order.

Based on the direction a notice was sent on 17.11.2014 and the dealers duly acknowledged it on 20.11.2014 fixing the date of hearing on 26.11.2014.

The dealers fixed their objections vide letter dated 27.01.2014 is not acceptable".

From the glance of the impugned order, it is very clear that it is a non-speaking order passed by the Assistant Commissioner of Taxes, Ramnagar Circle, Coimbatore.

9. Accordingly, the order passed by the Authority is set aside and the Writ Petitions are allowed. While setting aside the impugned order, this Court makes it very clear that an opportunity would be given to the petitioner by the respondent to enable them to produce

necessary documents and make their submissions in writing and also in person, if they require. After affording an opportunity of personal hearing, a fresh order can be passed by the authority concerned. The petitioner is directed to appear before the authority concerned with all available records on 03.03.2015 and the authority will have to consider the objections and documents, if any, produced by the petitioner and pass final orders within a period of four weeks after conclusion of personal hearing. This Court also makes it clear that if the petitioner fails to avail the opportunity of appearing in person and producing documents in person on 03.03.2015, based on the available records, the authority can pass final orders on merits and in accordance with law and the petitioner cannot make a grievance that they were not given an opportunity. It is also open to the petitioner to send their explanation and documents, if any, in advance to the authority concerned and thereafter appear on 03.03.2015. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssd

To

The Assistant Commissioner (CT)
Ram Nagar Assessment Circle,
Coimbatore

1 cc to Mr.N. Inbarajan, Advocate, Sr. 6145
1 cc to Spl.Government Pleader, (Taxes), Sr. 6253

W.P.Nos.2816 and 2817 of 2015 and

M.P.Nos.1 and 1 of 2015

RK (CO)

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