IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2015

CORAM:

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN

W.P.No.30448 of 2015
and
M.P.No.1 of 2015

Tvl.Ravi Auto Agency
represented by its Proprietor
R.Babu ... Petitioner

Vs

The Assistant Commissioner (CT)
Salem Town (South) Assessment Circle
Salem. ...Respondent

Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari, to call for the records on the files of the respondent in TIN.33142682113/2013-14 dated 26.12.2014 and quash the same as being contrary to the principle laid down by this Court in the judgment reported in (2012) 50 VST 179 (Mad) (Althaf Shoes (P) Ltd v. Assistant Commissioner (CT), Valluvarkottam Assessment Circle, Chennai -6 and that of the principle laid down by this court in the judgment reported in (2015) 82 VST 457 (M/s.Infinity Wholesale Limited, Chennai - 77 v. Assistant Commissioner (CT), Koyambedu Assessment Circle).

For Petitioner : Mr.R.Senniappan

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

ORDER

Challenging the assessment order dated 26.12.2014 passed by the respondent relating to the year 2013-14, the petitioner has filed the present writ petition.

2.According to the petitioner, the petitioner being the registered dealer under TNVAT Act, duly filed its returns for the year 2013-14. On verification of the same, the respondent proposed to reverse the claim of ITC under Section 27(2) of the Act, thereby issued notice dated 09.12.2014, calling for objections if any by the petitioner within 15 days from the date of receipt of the same. It is not in dispute that the said notice was served on the petitioner on 11.12.2014 and the last date for filing any objection by the petitioner falls on 26.12.2014. The respondent, without waiting for expiry of the time limit granted for filing objection by the petitioner, passed the assessment order for the year 2013-14 on 26.12.2014 itself. Hence, the petitioner is before this court.

3.The learned counsel for the petitioner submitted that the respondent passed the impugned assessment order without expiry of the time limit granted for filing written objections and without providing an opportunity of personal hearing to the petitioner and hence, the same is vitiated by the principles of natural justice. Therefore, the learned counsel for the petitioner seeks to set aside the same.

4.Heard both sides.

5.The TNVAT rules provide that sufficient time for filing objections must be given as well as personal hearing should also be provided before passing any orders on merits. In this case, the respondent without waiting for the expiry of time limit for filing objection by the petitioner and without granting an opportunity of personal hearing to the petitioner, passed the impugned order for the assessment year in question, as such, the same cannot be sustained in the eye of law.

6.In view of the above, the impugned order dated 26.12.2014 passed by the respondent relating to the assessment year 2013-14 is quashed. The matter is remitted back to the respondent for passing a fresh assessment order, on merits and in accordance with law. The petitioner is also permitted to file its written objections within a period of two weeks from the date of receipt of a copy of this order. On filing of such objections, the respondent shall consider the same and pass a fresh assessment order relating to the year in question, after giving due opportunity of personal hearing to the petitioner, within a period of four weeks thereafter.

7.Accordingly, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rk

To

The Assistant Commissioner (CT)
Salem Town (South) Assessment Circle
Salem.

+1cc to Mr.R. Senniappan, Advocate, S.R.No.64651
+1cc to Government Pleader S.R.No.64651

SKV(CO)
EU(14/12/2015)

W.P.No.30448 of 2015