IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2015

CORAM :

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.21783 and 21784 of 2013
and
MP.Nos.1 and 1 2013

A.Jayalakshmi ...Petitioner in both WPs

Vs.

The Assistant Commissioner(CT),
Villupuram-I Assessment Circle,
Villupuram. ...Respondent in both WPs

PRAYER: Petitions filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN No.33494681430/2009-2010 and 2010-2011 and quash the order dated 22.05.2013 for the reason that the same has been passed without conducting an enquiry as contemplated under section 22(4) of the TNVAT and also without granting a reasonable opportunity of being heard as contemplated under proviso to section 22(4) of the Tamil Nadu Value Added Tax Act.

For Petitioner : Mr. P.Rajkumar

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

C O M M O N O R D E R

The petitioner has filed these writ petitions, challenging the impugned order, dated 22.05.2013, on the sole ground that the mandatory condition contemplated under section 22(4) of the Tamil Nadu Value Added Tax Act, 2006 (for short, "TNVAT Act") has been completely overlooked and violated.

2. The petitioner is a Civil Work Contractor and a registered dealer on the file of the respondent under the provisions of TNVAT Act. The respondent issued a notice, dated 22.04.2013, proposing to make a best judgement assessment to levy tax on the turnover declared by the petitioner and also to levy penalty under Section 22(5) of the TANVAT Act for the assessment years 2009-2010 and 2010-2011. According to the petitioner, she was collecting the details for filing objections to the notice dated 22.04.2013. However, the respondent, without giving an opportunity of being heard under Section 22(4) of the TNVAT Act, has passed the impugned order. Aggrieved over the same, the petitioner is before this Court with these writ petitions.

3. The learned counsel for the petitioner would submit that the only grievance of the petitioner is that sufficient personal hearing as contemplated under Section 22(4) of the TNVAT Act has not been given and only on the ground of violation principles of natural justice, he seeks for setting aside the impugned order dated 22.05.2013.

4. Learned Additional Government Pleader would fairly submit that personal hearing as contemplated under Section 22(4) of the TNVAT Act was not given and therefore, the matters may be remitted back to the respondent and the respondent shall in turn give an opportunity of personal hearing to the petitioner and thereafter, pass orders in accordance with law.

5. Heard both sides.

6. Taking into consideration that the impugned order dated 22.05.2013 for the assessment years 2009-2010 and 2010-2011 was passed without giving an opportunity of personal hearing to the petitioner as contemplated under Section 22(4) of the TNVAT Act, in my considered opinion, the assessment order in respect of the assessment years 2009-10 and 2010-2011, dated 22.05.2013, is liable to be set aside.

7. In the result, this Writ Petitions are allowed and the assessment order in respect of the assessment years 2009-2010 and 2010-2011, dated 22.05.2013, is set aside. This matter is remitted back to the respondent to decide the matter afresh. It is needless to mention that the respondent shall give personal hearing to the petitioner to submit her objections, if any, and thereafter,

consider the same and pass orders, on merits and in accordance with law. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

svki/dn

To

The Assistant Commissioner(CT),
Villupuram-I Assessment Circle,
Villupuram.

1 CC to Spl. Government Pleader (Taxes), SR.No. 21510

W.P.Nos.21783 and 21784 of 2013

RSK (CO)
PSI (07.05.2015)