

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.38527 of 2015

and

M.P.No.1 of 2015

Tvl.Millennium Motors
Unit of Miracle Cars India Pvt. Ltd
rep. by its Authorised Signatory
E.Sethuraman ... Petitioner

Vs

- 1.The Assistant Commissioner (CT) (FAC)
Singanallur Assessment Circle,
Coimbatore.
- 2.The Commercial Tax Officer (Enf)
Group - II
Coimbatore. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India for the issuance of writ of Certiorari, to call for the records of the order in TIN: 33311826140/2014-2015 dated 06.10.2015 on the file of the first respondent herein and quash the same.

For Petitioner : Mr.N.Ponraj

For Respondents : Mr.V.Haribabu, AGP

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.Challenging the assessment order dated 06.10.2015 passed by the first respondent relating to the year 2014-15, the petitioner has filed the present writ petition.

3.According to the petitioner, the petitioner is a private limited company and is in the business of car dealing and a dealer of Skoda Cars. While so, the place of business of the

petitioner was inspected by the officers of Enforcement Wing during 19.02.2015, 20.02.2015 and 23.03.2015 to 28.03.2015 and certain defects were pointed out, for which, notice dated 27.07.2015 has been issued, calling for the petitioner's objections, if any and the same was served on the petitioner only on 04.11.2015. However, the assessment order for the year in question made ready on 30.09.2015 came to be passed on 06.10.2015. Aggrieved against the same, the petitioner is before this court.

4.Learned counsel for the petitioner submitted that notice dated 27.07.2015 calling for their objections with regard to proposed assessment, was served on the petitioner only on 04.11.2015. However, the first respondent, without ascertaining the service of notice and without providing reasonable opportunity to the petitioner by filing their objections and personal hearing, passed the impugned assessment order on 06.10.2015 and hence, the same is in violation of the principles of natural justice. Learned counsel for the petitioner also submitted that thereafter, the first respondent, without application of mind and without properly verifying the files, issued another notice dated 23.10.2015, which was served on the petitioner on 28.10.2015, for which, the petitioner filed their reply dated 04.11.2015, but no further communication was received by the petitioner.

5.When the writ petition came up for admission, this Court directed the learned Additional Government Pleader, who took notice for the respondents to get instructions regarding service of notice dated 27.07.2015 on the petitioner. Accordingly, the learned Additional Government Pleader today fairly submitted that on verification of files in the office of the Assessing Officer, there is no proof available for service of notice dated 27.7.2015 on the petitioner.

6.In view of the above, the impugned order dated 06.10.2015 in respect of the assessment year in question is set aside and the matter is remanded back to the first respondent. In order to give one more opportunity to the petitioner, this Court without going into the merits of the case, directs the first respondent to serve copy of the notice dated 27.07.2015 relating to the assessment year in question to the petitioner within two weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioner is directed to file their objections if any along with supportive documents within two weeks thereafter. On receipt of the objections from the petitioner, the first respondent is directed to consider the same and pass fresh assessment order for the year in question, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner.

7.The writ petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rk

To

1.The Assistant Commissioner (CT) (FAC)
Singanallur Assessment Circle,
Coimbatore.

2.The Commercial Tax Officer (Enf)
Group - II, Coimbatore.

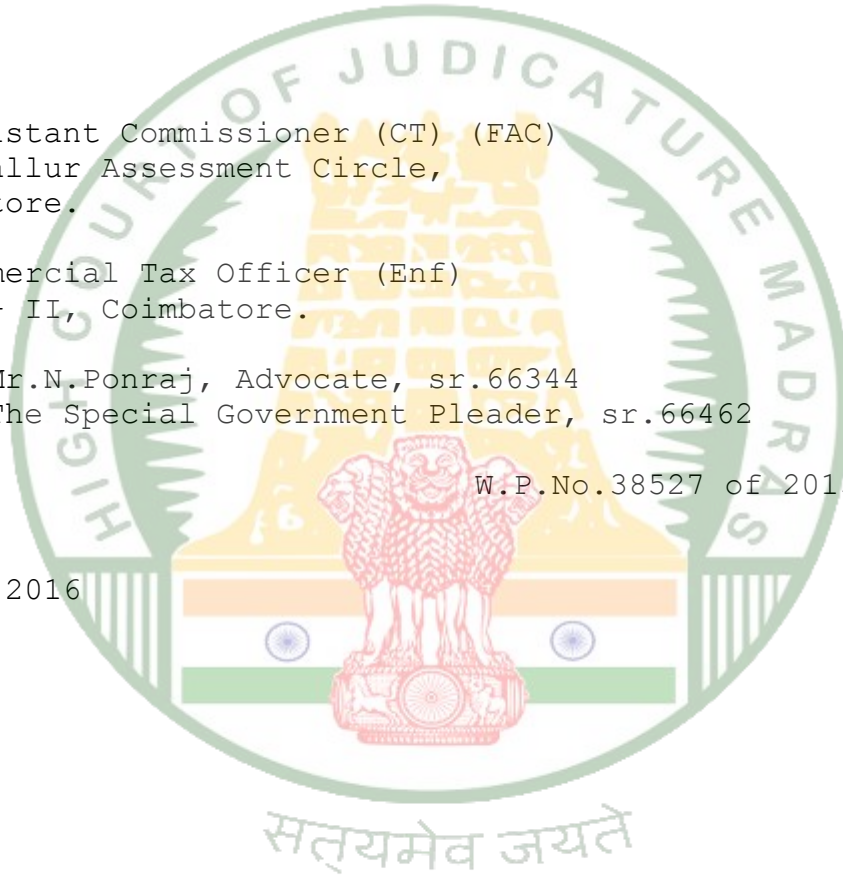
+1 cc to Mr.N.Ponraj, Advocate, sr.66344

+1 cc to The Special Government Pleader, sr.66462

W.P.No.38527 of 2015

kk co

kra 18.01.2016



WEB COPY