

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.2.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3895 of 2015
and
M.P.No.1 of 2015

M/s.Raksha Motors,
rep. by its Sole Proprietor
Mr.G.K.Srikanth
No.209, Narayanapuram,
Medavakkam,
Chennai 600 100. Petitioner

vs.

The Assistant Commissioner (CT)
Medavakkam Assessment Circle,
Door No.26-D, BHEL Nagar,
4th Main Road,
8th Cross Road, Medavakkam,
Chennai 600 100. Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the respondent's entire record of the impugned order No.TIN/ 33090984141/2011-12 dated 22.01.2015 and quash the same as illegal and void and consequently direct the respondent to pass fresh orders after affording the Petitioner an opportunity of being heard.

For Petitioner : Mr.V.J.Arulraj

For Respondents: Mr.Cibi Vishnu, AGP (T)

ORDER

Petitioner has come forward with the aforesaid prayer.

2. Admittedly, the notice dated 11.12.2014, issued prior to passing of the impugned order, was received at the business premises of the petitioner on 31.12.2014 vide postal consignment number RT 075277234 IN and according to the Proprietor of the petitioner firm, the said notice was brought to his knowledge only

on 7.1.2015 as he was held up at his native place viz., Salem due to his son's illness and one of his representatives met the Officer concerned and sought time to track the records as they were of three years old for which he was asked to meet the Officer in the third week of January 2015. Accordingly, when the said representative met the Officer on 22.1.2015, he was asked to come on the next day and on the next day, the representative was informed by the respondent that already an order dated 22.1.2015 was passed and therefore, he could not do any thing in the matter and the remedy of the petitioner is only to file an appeal. According to the petitioner, no opportunity was given to them and hence, the impugned order is liable to be set aside and the petitioner is agreeable for paying 10% of the amount determined as a condition precedent for getting an opportunity of being heard.

3. In the reply, the respondent submitted that due opportunity was given and the petitioner did not avail the opportunity and orders have been passed and hence, the petitioner has no right to invoke the jurisdiction of this court when he has got a remedy by way of appeal.

4. Admittedly, the petitioner was not given an opportunity to putforth their case and hence, the impugned order is liable to be set aside. Accordingly, the impugned order is set aside. The petitioner is directed to pay the agreed amount of 10% of the amount determined by the respondent and after making such payment, the petitioner shall appear before the authority on 16.3.2015 and after affording such opportunity of personal hearing, the respondent, shall pass orders on merits and in accordance with law within a period of two weeks thereafter.

5. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssk.

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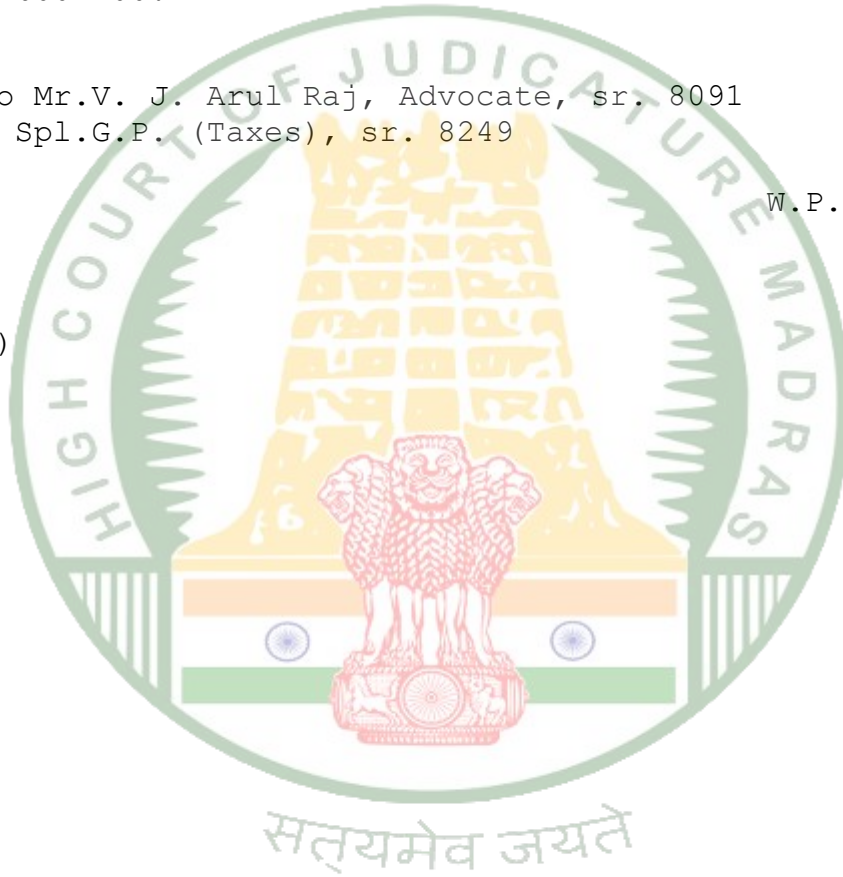
To

The Assistant Commissioner (CT)
Medavakkam Assessment Circle,
Door No.26-D, BHEL Nagar,
4th Main Road,
8th Cross Road, Medavakkam,
Chennai 600 100.

2 ccs to Mr.V. J. Arul Raj, Advocate, sr. 8091
1 cc to Spl.G.P. (Taxes), sr. 8249

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