IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No. 4537 of 2015 and
M.P.No.1 of 2015

M/s. MS Global India
Automotive Pvt. Ltd. Survey No.133 134
135 (part) SIPCOT Indl. Estate
Singaperumal Koil Road Mattur (PO)
Sriperumbudur Tk Kancheepuram Dt.

...Petitioner

Vs.

1. Assistant Commissioner - CT
Sriperumbudur Assessment Circle
Varadharajapuram Chennai-123.

2 Commercial Tax Officer
Oragadam Assessment Circle 3/177 2nd Floor
Bazaar Road Hajiyar Nagar Padappai
Tamil Nadu Pin-601301.

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the Second Respondent in his proceedings in TIN/ 33241667341/2012-13 dated 06/01/2015 and quash the same.

For Petitioner : M/s. S.Benazir

For Respondents : Mr.ANR.Jayapratap
Additional Government Pleader (T)

O R D E R

With the consent on either side the Writ Petition itself is taken up for final disposal at the admission stage.

2.The petitioner has come forward with the aforesaid Writ Petition challenging the impugned assessment order dated 06.01.2015 on the ground that no opportunity of personal hearing was granted to the petitioner.

3.According to the petitioner they are the dealer in manufacturer of Automobile Parts and accessories and registered dealer under Tamilnadu Value Added Tax Act, 2006.

4.The learned counsel for the petitioner prays to quash the impugned order only on the ground that no opportunity has been given to the petitioner and the tax has been levied at Rs.5,18,07,031/-. He would also submit that the petitioner has requested an opportunity of personal hearing by letter dated 08.09.2014, however, irrationally the orders have been passed which is complete violation of Principles of Natural Justice and violation of mandatory conditions provided under the Tamil Nadu Value Added Tax Act, 2006.

5. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the documents available on record.

6. In the decision of the Hon'ble Apex Court reported in 14 TNCTJ 220 (DB) (Tvl.SRC Projects Pvt. Ltd., Vs. The Commissioner of Commercial Taxes and another), the Hon'ble Apex Court has held that when there is a revisional assessment, there should be a reasonable opportunity to the assessee and if the same is not given, the order will have to go. As far as the case in hand is concerned, since there is violation of mandatory condition of personal hearing which has got to be given effect to even in the least case and in this case the petitioner has asked for personal hearing by letter dated 08.09.2014, we have no other option except to set aside and the matter has to be remitted to the Authority concerned for passing fresh orders, after affording a reasonable opportunity to the petitioner.

7. Taking note of the decision of the Hon'ble Apex Court cited supra, leaving open all the points to be raised before the Authority concerned by the petitioner, I set aside the impugned order dated 06.01.2015, passed by the respondent only on the ground that no opportunity has been given to the petitioner. The petitioner is directed to appear before the Authority concerned on 23.03.2015, on which date, he is entitled to make his verbal and written submissions, if any and also file documents in support of his contention. In case the petitioner fails to avail this opportunity on 23.03.2015, it is open to the Authority to pass orders on merits based on the available records, within a period of four weeks thereafter. However, this Court makes it clear that if the petitioner fails to avail the opportunity, he should not contend that no opportunity is given.

8. This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

smi

-s/d-
Assistant Registrar(LA)
Dt:4/3/2015

True Copy

Sub-Assistant Registrar

To

1. Assistant Commissioner - CT
Sriperumbudur Assessment Circle
Varadharajapuram Chennai-123.

2. Commercial Tax Officer
Oragadam Assessment Circle 3/177 2nd Floor
Bazaar Road Hajiyar Nagar Padappai
Tamil Nadu Pin-601301.

+ 1 cc to Mr.S.Benazir, Advocate SR 9586

+ 1 cc to Govt.Pleader SR 9771.

ts(co)
prk4/3

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