IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.6036 to 6039 of 2015
and M.P.Nos.1 and 2 of 2015

M/s.Balamurugan Automobiles
Rep. By its Partner R.Sampath Kumar
No.93/3 New Bye-Pass Road
Vellore-632 004 .. Petitioner in all the above WPs.

Vs.

The Assistant Commissioner (CT)
Vellore North
Vellore .. Respondent in all the above WPs.

Prayer in W.P.6036/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the respondent dated 20.02.2015 bearing No.TIN 33904202558/2008-09 and to quash the same.
Prayer in W.P.6037/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the respondent dated 20.02.2015 bearing No.TIN 33904202558/2009-10 and to quash the same.
Prayer in W.P.6038/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the respondent dated 22.01.2015 bearing No.TIN 33904202558/2011-12 and to quash the same.
Prayer in W.P.6039/2015:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the impugned order of the respondent dated 22.01.2015 bearing No.TIN 33904202558/2012-13 and to quash the same.



For Petitioner : Mr.S.Ravee Kumar for MrMcgan Law firm.

For Respondents : Mr.V.Haribabu, Addl.Govt.Pleader(Taxes)

O R D E R

The Writ Petitioner has come forward with the aforesaid prayer, challenging the order of the respondent.

2.Heard both sides.

3. The place of the business of the petitioner was inspected by the Enforcement Wing Officials from 11.07.2013 to 13.07.2013 and on 15.07.2013 and found certain defects. Based on the inspection report, a Show Cause Notice dated 10.11.2014 was issued to the petitioner revising the tax assessment for the assessment years 2011-12 & 2012-13 on 27.10.2014 and for 2008-09 and 2009-10 on 10.11.2014. Since there was fire accident in the premises of the petitioner, the petitioner sought time and personal hearing, however, without discussing the objections, the respondent issued the impugned assessment orders to the petitioner. Hence, the same is challenged by the writ petitioner in the above writ petitions.

4. Learned counsel for the petitioner relied on Circular No.7/2014 issued by the Principal Secretary/Commissioner of Commercial Taxes, Chepauk, Chennai-5 dated 03.02.2014, wherein, it is stated that no order shall be passed without being satisfied of the reasonable opportunity. The contention of the petitioner is that the impugned orders have been passed without granting time and opportunity of personal hearing to the petitioner.

5. In my considered opinion, even though the assessment orders indicates that the objections raised by the dealer were carefully examined, the objections raised by the petitioner were rejected and there was no personal hearing granted by the respondent as required under the Act. On the above ground, the impugned assessment orders are set aside and the matters are remitted to the respondent to pass fresh orders after giving sufficient time and affording personal hearing to the petitioner. The respondent is directed to intimate the date of personal hearing to the petitioner by registered post. The petitioner shall also furnish E-mail address to the respondent to enable the authorities to indicate the date of hearing through E-mail. It is open to the petitioner to furnish all necessary records and documents at the hearing of the matter before the respondent to substantiate their stand.

6. The Writ Petitions are allowed on the above terms. No costs. Consequently, connected MPs are closed.



Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

nvsri

To

The Assistant Commissioner (CT)
Vellore North
Vellore
+1cc to M/s.Mc.Gan Law Fir, Advocate SR.No.12515

+ 1 CC to the Spl. Government Pleader SR NO 12418

W.P.Nos.6036 to 6039 of 2015

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gp/17.03.2015