

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.3.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7521 of 2015

and

MP.No. 1 of 2015

Tvl. Padmavathy Amman Earth Movers and Blue Metals,
Represented by its Proprietor
Thiru D.Sivakumar
Peramandur Post, Tindivanam Taluk ...Petitioner

Vs.

Commercial Tax Officer (Main)
136, 137, Nehru Street
(State Bank up Stair), Tindivanam ... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari Calling for the records in respect of the impugned Order TIN 33114723931/2011-12 - Entry Tax on Goods Vehicles dated 14.01.2015 of the Respondent under the Tamil Nadu Tax on Entry of Motor Vehicles into Local Areas Act 1990 quash the same.

For Petitioner :Mr.Adithya Reddy

For Respondents :Mr.V.Haribabu

Additional Government Pleader

O R D E R

The above writ petition has been filed challenging the impugned order dated 14.1.2015.

2. According to the petitioner, the respondent has no jurisdiction to levy Entry Tax under the Tamil Nau Tax on Entry of Motor Vehicles into Local Areas Act, 1990 on the purchase of Excavator. According to him, a show cause notice dated 12.12.2014 was issued to the petitioner calling for explanation. Before submitting the reply, the respondent has passed the impugned order. Therefore, the petitioner is before this Court.

3. The learned counsel for the petitioner submitted that the impugned order has been passed by the respondent without giving an

opportunity of personal hearing. Therefore, the learned counsel submitted that the impugned order is per se illegal and non est in the eye of law. In support of this contention, the learned counsel for the petitioner also relied on the Division Bench of this Court in RDS PROJECTS LTD. V. COMMERCIAL TAX OFFICER [(2007) 8 VST 574].

4. I have heard the submission made by the learned Additional Government Pleader on the submission made by the learned counsel for the petitioner.

5. Admittedly, the petitioner has not submitted his objections as against the notice issued by the respondent inspite of granting sufficient time. The respondent has passed the impugned order only after the expiry of time granted to the petitioner to furnish reply. However, the respondent failed to give an opportunity of personal hearing to the petitioner. Only on the said ground, I am inclined to set aside the impugned order.

6. Accordingly, without going into the merits of the petitioner's contention, the impugned order is set aside and the matter is remitted to the respondent for fresh consideration. The petitioner is directed to submit his objections along with documents to the respondent within a period of three weeks from the date of receipt of a copy of this order. On receipt of the said objections, the respondent is directed to send communication to the petitioner well in advance, fixing the date of personal appearance of the petitioner. On the said date, the petitioner shall appear before the authority concerned and on such appearance, the authority concerned shall hear the petitioner and pass orders in accordance with law, after considering the objections to be submitted by the petitioner. The petitioner is also directed to pay 10% of the entry tax levy demanded by the respondent, without prejudice to his right, within a period of three weeks from the date of receipt of a copy of this order. The petitioner is at liberty to raise all the contentions raised in this writ petition before the authority concerned.

7. It is made clear that if the petitioner fails to appear before the authority concerned on the date to be fixed by the authority, the respondents are at liberty to proceed with the matter in accordance with law.

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

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-s/d-

Assistant Registrar(CS-II)

Dt:8/4/2015

True Copy

Sub-Assistant Registrar

To

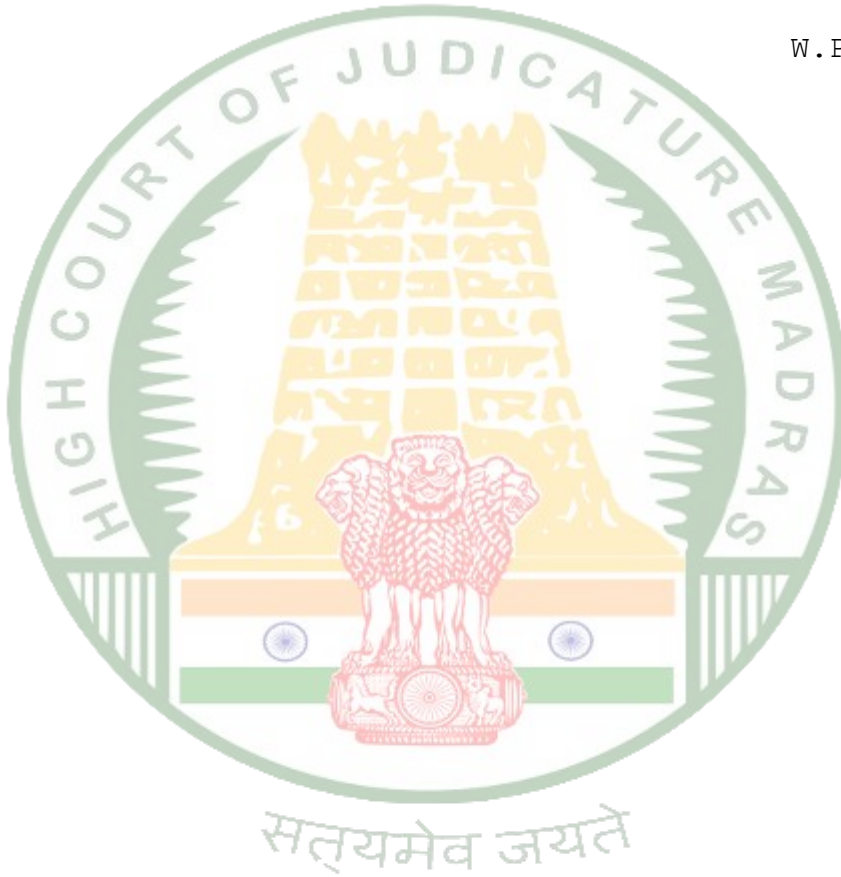
Commercial Tax Officer (Main)
136, 137, Nehru Street
(State Bank up Stair), Tindivanam

+ 1 cc to Mr.S.P.Asokan, Advocate sR 15738

+ 1 cc to the Spl.Govt.Pleader, High Court, Madras SR 15803

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