IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9193 and 9194 of 2015
And
M.P.Nos.1 of 2015

Tvl.Raja Communications
Repd. by its Proprietor J.Raja
No.9 New Street West Chinnasalem
Villupuram District. [Petitioner in both the petitiones]

Vs

Commercial Tax Officer(Addl)
Kallakurichi Assessment Circle
Kallakurichi. [Respondent in both the petitiones]

Prayer in both petitions

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified mandamus to call for the impugned proceedings of the respondent herein TIN/33814782910/2011-12 and 2012-13 respectively dated 12.11.2014 and consequential order in Rc.A3/475/2015 dated 26.02.2015 in respect of W.P.No.9193 of 2015 and quash the same and direct the respondent to redo the assessment after giving personal hearing and lift the Bank Attachment.

For Petitioner : Mr.R.Sivaraman

For Respondent : Mr.A.N.R.Jayapratap, AGP(T)

C O M M O N O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the writ petitions themselves are taken up for hearing.

2. The petitioner has come forward with these writ petitions

challenging the orders of the respondent dated 12.11.2014 and 26.02.2015 and to direct the respondent to redo the assessment after giving personal hearing and lift the Bank Attachment.

3. When the matters are taken up for hearing, learned counsel for the petitioner submitted that earlier the business was looked after by his father S.Jayaraman and after his demise on 16.05.2014 , he took over the business. According to the learned counsel, it is the grievance of the petitioner that though detailed assessment orders have been passed, he was not given an opportunity.

3. The learned Additional Government Pleader (Taxes) would contend that the petitioner is a defaulter and hence impugned order is sustainable.

4. Since the petitioner's father is passed away and the petitioner took charge of the business, this Court is of the view that the petitioner ought to have been given an opportunity of being heard to make his submissions before assessment orders are passed.

5. The learned counsel for the petitioner has also submitted that the petitioner has agreed to pay 10% of the tax amount as determined by the authority for each of the assessment years within a stipulated time. He further submitted that if an opportunity is given to the petitioner, he would be able to convince the authority. He further adds that he would co.operate to enable the assessing officer to complete the proceedings afresh.

7. Hence, without going into the merits of the matter, on the ground of violation of principles of natural justice, the impugned orders of assessment are set aside and the matters are remitted back to the respondent for passing fresh orders. The respondent is directed to accept 10% of the tax amount as determined in the impugned orders, which the petitioner has agreed to pay the same. On receipt of the said amount, the respondent can de freeze the Bank account of the petitioner and the respondent is directed to give an opportunity of personal hearing to the petitioner as provided under Section 22(4) of the Act and decide the matter afresh on merits and in accordance with law.

8. The learned counsel for the petitioner also agreed that the petitioner would appear before the respondent on 04.05.2015 for personal hearing. After hearing the petitioner on 04.05.2015, the respondent is directed to decide the matter on merits and in accordance with law. In case the petitioner fails to avail this opportunity on 04.05.2015, the authority is empowered to pass

orders afresh on merits and in accordance with law based on the available records.

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

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

Commercial Tax Officer(Addl)
Kallakurichi Assessment Circle
Kallakurichi.

2 CCs to Mr.R.Sivaraman, Advocate SR.No. 8559

1 CC to Spl. Government Pleader, SR.No. 18231

W.P.Nos.9193 and 9194 of 2015

VGI (CO)
PSI (11.04.2015)