IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9391 of 2015
and M.P.No.1 of 2015

Tvl. Kumaran
Rep.by its Proprietor
Thiru. K.Venkatesan
No.14/462 Palur Main Road
Naduveerapattu, Cuddalore Taluk.
... Petitioner

- Vs -

The Assistant Commissioner
(Commercial Taxes) Cuddalore Taluk
Assessment Circle 1 Commercial Taxes
Buildings Sub Jail Road Manjakuppam
Cuddalore-607001.
... Respondent

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in respect of the impugned Assessment Order TIN: 33564402856/11-12 dated 20.02.2015 of the respondent under the Tamil Nadu Value Added Tax Act 2006 quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.Manoharan Sundaram, AGP(T)

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 petition is taken up for hearing.

2. The petitioner has come forward with this writ petition challenging the order of the respondent dated 20.02.2015 and for a direction to the respondent to provide an opportunity to present its objections.

3. The learned counsel for the petitioner Company submitted that the grievance of the petitioner Company is that even though in the impugned order, it has been stated that even after serving of notice, since the petitioner has not filed any objection and that the

petitioner has not availed sufficient opportunity given to them and hence they are confirming the proposals and revised orders are passed, no opportunity of being heard was given to the representative of the petitioner. Learned counsel for the petitioner also produced the postal acknowledgement receipt for sending his objections. Hence, the impugned order is liable to be quashed.

4. The learned counsel for the petitioner further submitted that the petitioner would co-operate to enable the assessing officer to complete the proceedings afresh.

5. A glance over the impugned assessment orders would show that the petitioner was not given an opportunity of being heard. For the sake of convenience, Section 22 of the Tamil Nadu Value Added Tax, 2006 is extracted below:-

> "(22) Procedure to be followed by Assessing Authority:-
>
> (1)...
> (2)...
> (3)....
>
> (4) If no return is submitted by the dealer for that year, the assessing authority shall, after making such enquiry as it may consider necessary, assess the dealer to the best of its judgment, subject to such conditions as may be prescribed:
>
> Provided that before taking action under this sub-section, the dealer shall be given a reasonable opportunity of being heard".

In this case, admittedly, no opportunity of being heard was given to the petitioner.

6. Hence, without going into the merits of the matter, on the ground of violation of principles of natural justice, the impugned assessment order dated 20.02.2015 is set aside and the matter is remitted back to the respondent for passing fresh orders. The respondent is directed to give an opportunity of personal hearing to the representative of the petitioner as provided under Section 22(4) of the Act and decide the matter afresh on merits and in accordance with law.

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

smi

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner
(Commercial Taxes) Cuddalore Taluk
Assessment Circle 1 Commercial Taxes
Buildings Sub Jail Road Manjakuppam
Cuddalore - 607 001.

+ 1 cc to Mr.S.P.Asokan, Advocate SR 18137

+ 1 cc to Spl.G.P.(Taxes), High Court, Madras SR 18235

rsi(co)
prk13/4

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