IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.9398 & 9399 of 2015
And
M.P.Nos.1 & 2 of 2015

M/s. Jayashree Agencies
Rep. by its Proprietor X-
S. Sumathi, No.53, V.O.C.Street,
Villupuram 605 602. ..Petitioner in WP.9398/15

M/s. Murugan Stores
Rep. by its Proprietor-A.Ganesa Pandian No.
74 A.S.R. Complex Gandhi Bazaar Gingee-
604202 Villupuram District.

.... Petitioner in WP.9399/15

Vs

The Assistant Commissioner (CT)
Villupuram-1, Villupuram ...Respondent in WP.9398/15

The Commerical Tax Officer,
Gingee, Villupuram District. ...Respondent in WP.9399/15

Common Prayer in both WPs:

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the proceedings of the respondent contained in TIN 33894682665/2013-14 dated 18.12.2014 & TIN 33664741234/2009-10 dated 13.02.2015 respectively and quash the same.

For Petitioner : Mr.R.Hemalatha
For Respondent : Mr.Manoharan Sundaram, AGP(T)

COMMON ORDER

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 are taken up for hearing.

2. The petitioner has come forward with these writ petitions challenging the orders of the respondent dated 18.12.2014 and 13.02.2015 and quash the same.

3. The learned counsel for the petitioner submitted that the proceedings impugned in this writ petition are passed without issuing notice to the petitioner and calling for an objections and affording an opportunity of personal hearing. Hence, the impugned orders are liable to be quashed.

4. A glance over the impugned assessment orders though it has been stated that notice has been issued to the petitioner calling for the objection, it has not specifically stated as to when the impugned notices were issued and when it was served on the petitioner. Learned counsel for the respondent is also unable to refute the contention of the petitioner that an opportunity of being heard was given. 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.

5. Hence, without going into the merits of the matter, on the ground of violation of principles of natural justice, the impugned assessment orders dated 18.12.2014 & 13.02.2015 are set aside and the matters are 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.

These writ petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commerical Tax Officer,
Gingee, Villupuram District.

2. The Assistant Commissioner (CT)
Villupuram-1, Villupuram.

+ 2 ccs to Mrs. R. Hemalatha, Advocate SR.

+ 1 cc Government Pleader Sr.18229

AK(CO)
EU 16.04.2015