IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 16-12-2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WRIT PETITION No.9957 OF 2004

M/s.Sri Karuv Spinners (P) Ltd.,
Sastha Nivas, Thirunagar,
Mangalam Road,
Tiruppur. ...Petitioner

-vs-

The Commercial Tax Officer,
Tiruppur (South). ...Respondent

Writ Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records of the respondent in TNGST.2323219/2001-02, and quash the order, dated 16.05.2003, passed therein, inasmuch as the said order has been passed in violation of Rule 52 of the TNGST Rules,1959, read with Section 12 of the TNGST Act,1959.

For petitioner : Mr.B.Raveendran
for M/s. Chandran Karuppiah,
For respondent : Mr.S.Kanmani Annamalai,
Addl.Govt.Pleader.

O R D E R

The specific case of the petitioner is, that the Best Judgment Assessment Order, dated 16.05.2003, which is impugned in this Writ Petition, has been passed by the respondent, without serving any pre-assessment notice, and, therefore, the said order is liable to be quashed. According to the learned counsel for the petitioner, Rule 52 of the Tamil Nadu General Sales Tax Rules,1959, provides for the mode of service of notice against the assessment orders.

2. When there is a blatant violation of the said Rule, the impugned order, which suffers on the failure to serve proper notice to the petitioner, cannot be sustained.

3. On the above aspect, the learned Additional Government Pleader was directed to get instructions. Accordingly, with all fairness, he submitted, that no pre-assessment notice was served on the petitioner, as against the order impugned.

4. Under these circumstances, the impugned order, dated 16.05.2003, passed by the respondent, is set aside, and the matter is remanded to the respondent, for fresh consideration, and for

passing appropriate orders, in accordance with law, after serving due notice on the petitioner. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

5. Writ Petition is allowed. No costs. Consequently, the connected W.P.M.P.No.11638 of 2004 is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dixit

To

The Commercial Tax Officer,
Tiruppur (South).

+1cc to M/s. Chandran Karuppaih, Advocate, S.R.No.67982

+1cc to the Special Government Pleader, S.R.No.67891

MP(CO)
EU(7/01/2015)

W.P.No.9957 OF 2004