BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.02.2015
CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.2151 of 2015
and
M.P.(MD).No.1 of 2015

A.Maria Leon ... Petitioner

Vs.

The Commercial Tax Officer,
Thuckalay,
Kanyakumari District. ... Respondent

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN:33956166344/2013-2014, dated 22.12.2014 and quash the same as illegal, arbitrary and in violation of the principles of natural justice and consequently direct the respondent to consider the reply submitted by the petitioner dated 24.12.2014.

For Petitioner : Mr.M.Azeem

For Respondent : Mr.A.Muthukaruppan
Addl. Government Pleader

O R D E R

The Writ Petition has been filed to quash the impugned order in TIN:33956166344/2013-2014, dated 22.12.2014 passed by the respondent and consequently direct the respondent to consider the reply submitted by the petitioner dated 24.12.2014.

2. The only ground raised by the petitioner to quash the proceedings is the petitioner was granted time for filing objections viz., 15 days after the request made by his letter dated 09.12.2014, but before the period expires, the impugned order is passed on 22.12.2014. Under law, the last date for filing an objection itself is 24.12.2014 - holiday (Christmas Eve), 25th being Christmas, there is time up to 26.12.2014, but the order itself has been passed on 22.12.2014. Therefore, there is a gross violation of principles of natural justice. Hence, he would challenge the same.

3. In this connection, the learned counsel for the petitioner relied on the Division Bench judgment in ***V.G.Textiles (P) Limited v. Commercial Tax Officer (Mad.)*** reported in ***(1997) 106 STC 123,*** wherein this Honourable Court had clearly pointed out that normally this Court does not interfere, but when there is a gross violation after granting time, the order is vitiated. The relevant portion is extracted hereunder:

> "***Held accordingly, that though earlier, time might have been granted to the appellant, on the date the order in question was passed, time granted to it for filing objections had not expired. The order of assessment has been passed in gross violation***

of the principles of natural justice, denying the appellant the right to file objections to the proposed assessment. The order was liable to be quashed."

4. The learned counsel for the petitioner would submit that the reply has already been submitted on 23.12.2014, but the only consideration is that reply has to be considered and thereafter, order to be passed. The petitioner also in his reply sought for a personal hearing. If an opportunity of personal hearing is given, he would also convince the authorities concerned.

5. The learned counsel for the respondent would contend that no doubt 15 days time has been granted, but he had given the reply only on the last date and that an opportunity of personal hearing is not mandatory in this matter.

6. Taking into consideration the Division Bench judgment of this Honourable Court, when the petitioner was granted 15 days time and the order has been passed even before the expiry, the impugned order is liable to be set aside. At the same time, the only request is that the respondent will consider the objection dated 23.12.2014.

7. Accordingly, the respondent is directed to consider the objection dated 23.12.2014 and if necessary, the petitioner will be given one personal hearing and on that day, the petitioner will appear before the respondent and he will not seek any further time and the respondent will pass appropriate orders accordingly.

With the above directions, this Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

To
The Commercial Tax Officer,
Thuckalay,
Kanyakumari District.

+1cc to Mr.M.Azeem,Advocate SR.No.7868

W.P.(MD)No.2151 of 2015
18.02.2015

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