BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2015

CORAM:
THE HONOURABLE MR.JUSTICE B.RAJENDRAN
W.P.(MD)Nos.221 and 222 of 2015
and
M.P.No.1 of 2015

Tvl.Ram Agencies, Rep by its
Proprietor: S.Ramachandran,
R.K.Complex,
No.5, Vallam No.1 Road,
Thanjavur. : Petitioner in both WPs.

Vs.

The Assistant Commissioner [CT],
Thanjavur II Assessment Circle,
Thanjavur. : Respondent in both WPs.

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorari to call for the records on the files of the respondent herein in TIN:33923825120/2012-2013 and 2013-2014 dated 21.11.2014 and quash the same.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.R.Anandraj
Government Advocate

O R D E R
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As the issues involved in both the Writ Petitions are common with a challenge to the very same impugned order, they have been taken up together and dealt with by a Common Order.

2. Challenge in these Writ Petitions is to the order dated 21.11.2014 passed by the respondent herein.

3. The only grievance of the petitioner is that even though the petitioner has submitted returns and he has valid acknowledgment, the authority concerned has passed the impugned orders on the ground that no returns have been filed. He would further contend that the authority concerned has not taken into consideration the very submission of the documents. Furthermore, under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006, there is a mandatory provision that before passing such an order, an opportunity of being heard has to be provided to the dealer concerned. However, in the case on hand, before passing the impugned orders, no opportunity of hearing has been given to the petitioner. In support of his contention, the learned counsel, relying upon an order of this Court dated 28.03.2014, made in W.P.[MD].No.16170 of 2013, would contend that in similar circumstances, this Court, taking into consideration of the fact that before passing the impugned orders, no opportunity of hearing was given to the petitioner therein, quashed the

impugned order and remitted the matter back to the authority concerned for fresh consideration, after affording opportunity of personal hearing. The learned counsel, therefore, would submit that the impugned orders are liable to be set aside.

4. On the other hand, the learned Government Advocate appearing for the respondent would vehemently contend that the acknowledgment produced by the petitioner does not contain the seal of the Sales Tax Department and therefore, the authority concerned has rightly passed the impugned orders, which do not call for any interference by this Court.

5. I have considered the above submissions and perused the records carefully.

6. A plain reading of the impugned orders would show that before passing the impugned orders, the petitioner was not given opportunity of hearing, as contemplated in Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006. Thus, on the sole ground, the impugned orders are liable to be quashed. Moreover, in an identical circumstance, this Court in W.P. [MD].No.16170 of 2013, dated 28.03.2014, considered a similar issue and quashed the impugned order.

7. In such view of the matter, the impugned orders, dated 21.11.2014, passed by the respondent are set aside, subject to the condition that the petitioner shall deposit 10% of the tax demanded, in each case, within a period of fifteen days from the date of receipt of a copy of this order and the matter is remitted back to the respondent, who shall give opportunity of personal hearing to the petitioner and thereafter pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

8. The Writ Petitions are allowed, as indicated above. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

NB

To

The Assistant Commissioner [CT],
Thanjavur II Assessment Circle,
Thanjavur.

+2 cc to MR.A.CHANDRA SEKARAN, ADVOCATE SR NOS.891 & 892
+2CC TO SPECIAL GOVERNMENT PLEADER SR NOS.992 & 993

COMMON ORDER MADE IN
W.P.(MD)Nos.221 and 222 of 2015
DATED - 08.01.2015

rg.22.01.2015 2p.6c.