BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :19.03.2015

CORAM:
THE HONOURABLE MR.JUSTICE B.RAJENDRAN
W.P(MD)No.3910 of 2015
and
M.P.(MD).Nos.1 and 2 of 2015

Mr.R.Ramkumar ... Petitioner

Vs.

The Commercial Tax Officer,
Thiruverumbur Assessment Circle,
Trichy-20. ... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in TIN No. 33913563953/2011-12, dated 16.02.2015 and quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass assessment order afresh after affording an opportunity of being heard to the petitioner by considering the reply dated 12.02.2015 filed by the petitioner within a stipulated time, as may be directed by this Hon'ble Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

The only ground raised in the writ petition by the petitioner is that the impugned order is passed in violation of Section 27(4) of the Tamil Nadu Value Added Tax Act, 2006.

2. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader.

3. The learned Counsel for the petitioner would submit that in respect of second show cause notice, the petitioner has given a detailed reply on 12.02.2015, however, the impugned order was passed on 16.02.2015 and in that order, the Authority has stated that there was no reply to the second show cause notice, which is wrong, as the reply was acknowledged on 12.02.2015 and hence, he has not given further opportunity of personal hearing and certain documents have not also been furnished to him. He would further submit that to show his bonafide, the petitioner is prepared to pay 15% of tax demanded and seeks for one more opportunity of personal hearing.

4. The learned Additional Government Pleader would submit that the first reply given by the petitioner has been considered in detail and the second reply has been given in the office, probably, it is not reached from the office to file.

5. If that is so, we should not blame the Officers and therefore, there is nothing wrong in the impugned order. In any event, it is suffice to state that the Authority has not been taken into consideration the explanation given for the second show cause notice which was available in the office and duly acknowledged on 12.02.2015. Further an opportunity, as contemplated under the Act is not given. Therefore the petitioner is directed to pay 15% of tax demanded, as admitted by him, within a period of four weeks, from the date of receipt of a copy of this order, failing which the petitioner is not entitled to the benefit under the Tamil Nadu Value Added Tax Act. On such payment, the Authority shall give one more opportunity of personal hearing to the petitioner and pass appropriate orders in accordance with law, considering his objection. The impugned order is remitted back to the authority for consideration.

6. With the above observations, the Writ Petition is disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar (AS)

/True copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Thiruverumbur Assessment Circle, Trichy-20.

+1cc to MR.S.KARUNAKAR, ADVOCATE IN SR : 13257
+1CC TO THE SPECIAL GOVERNMENT PLEADER, IN SR : 13732

Ssl
SR : 30.03.2015 : 2p/4c

W.P(MD)No.3910 of 2015
and
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19.03.2015