IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.10642 of 2016 and
W.M.P.No.9333 of 2016

M/s.K.K.Auto Spares,
rep by its Proprietrix K.Nalini,
No.5, Thiruvannamalai Road,
Puthukuppam, Thirumangalam Post,
Villupuram - 605 501. ... Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
   Villupuram-II Assessment Circle,
   Villupuram.

2. The Deputy Commercial Tax Officer,
   Villupuram-I Assessment Circle,
   Villupuram. ... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the impugned proceedings of the 1st respondent in TIN 33894702259/2013-14 and quash the order dated 14.12.2015 as passed contrary to the provisions of TNVAT Act and without providing a personal hearing which is mandatory as per proviso to Section 22(4) of the TNVAT Act and so against the principles of natural justice and to further direct the 1st respondent to pass a fresh assessment order after considering the complete and correct returns filed by the petitioner under Section 22(6) of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorarified mandamus to call for the impugned proceedings of the 1st respondent in TIN 33894702259/2013-14 and to quash the order dated 14.12.2015 which was passed without providing a personal hearing to the petitioner and to further direct the 1st respondent to pass as fresh assessment order.

2.It is the case of the petitioner that the 1st respondent had passed the impugned order dated 14.12.2015 even without affording an opportunity of personal hearing, which is a mandatory provision under Section 22(4) of the TNVAT Act.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that since the respondent has not given an opportunity of personal hearing to the petitioner, the impugned order can be set aside and the matter may be remanded to the 1st respondent for fresh consideration.

4.Having regard to the submissions made by the learned counsel on either side, since the respondent has not given an opportunity of personal hearing to the petitioner, which is in violation of principles of natural justice, the impugned order dated 14.12.2015 is liable to be set aside. Accordingly, the same is set aside and the matter is remanded to the 1st respondent for fresh consideration. The 1st respondent is directed to decide the matter afresh, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Deputy Commercial Tax Officer,
   Villupuram-II Assessment Circle,
   Villupuram.

2. The Deputy Commercial Tax Officer,
   Villupuram-I Assessment Circle,
   Villupuram.

+ 1 cc to Mr.P.Rajkumar, Advocate, SR 18124

+ 1 cc to Govt.Pleader, High Court, Madras SR 18232

scd(co)
prk31/3

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