IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.10696 of 2016 and

W.M.P.No.9357 of 2016

M/s.S.M.M.Sahul Hameed & Co.,
rep by its Proprietor
S.M.M.Mohamed Ameer Ali
No.29/3, Sembudoss Street,
Chennai - 600 001. ... Petitioner

Vs.

1.The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street,
Chennai - 600 001.

2.The Deputy Commercial Tax Officer,
Tharangambadi Commercial Taxes Checkpost,
Tharangambadi - 609 309. ... 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:33440060911/2014-15 and quash the order dated 21.12.2015 as passed based on the MIS report obtained from TNVAT Act website and so contrary to the provisions of the TNVAT Act and against the principles of natural justice and to further direct the 1st respondent to pass a fresh order in accordance with law after providing opportunity to the petitioner.

For Petitioner : Mr.P.Rajkumar

For Respondent : Mr.Cibi Vishnu,
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:3344006091/2014-15 dated 21.12.2015 and to quash the same and to further direct the 1st respondent to pass a fresh order in accordance with law after providing opportunity to the petitioner.

2.It is the case of the petitioner that though the impugned order says that a notice was issued on 01.10.2015, which was duly served on 05.10.2015. The petitioner did not receive the notice dated 01.10.2015 till this date. Further, the petitioner had stated that he was taking treatment for an accident injury and therefore, he did not receive the notice dated 01.10.2015. The learned counsel for the petitioner submitted that since no notice was served on the petitioner, they could not file their objections and the respondent had passed the impugned order without considering their objections.

3.Mr.Cibi Vishnu, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that an opportunity may be given to the petitioner to file their objections to the notice dated 01.10.2015 and the respondent may be directed to decide the matter afresh.

4.Since the petitioner was not served with the notice dated 01.10.2015, in the interest of justice, I am of the view that an opportunity can be given to the petitioner to putforth their case. Accordingly, the impugned order dated 21.12.2015 is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to send a copy of the notice dated 01.10.2015 to the petitioner within a period of one week from the date of receipt of a copy of this order and the petitioner is granted two weeks time thereafter to give a reply to the notice dated 01.10.2015. After the receipt of the reply, the respondent is directed to decide the matter afresh, taking into consideration the objections filed by the petitioner and after affording due opportunity of personal hearing to the petitioner, on merits and in accordance with law.

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

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

1.The Commercial Tax Officer,
Broadway Assessment Circle,
No.199, Thambu Chetty Street,
Chennai - 600 001.

2.The Deputy Commercial Tax Officer,
Tharangambadi Commercial Taxes Checkpost,
Tharangambadi - 609 309.

+1cc to Mr.P.Rajkumar, Advocate, S.R.No.18123
+1cc to the Government Pleader, S.R.No.18234

W.P.No.10696 of 2016 and
W.M.P.No.9357 of 2016

ala(CO)
srg(01/04/2016)