IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.11357 of 2016 and
W.M.P.No.9813 of 2016

M/s.Palani Auto Center,
rep by its Proprietor V.Palani,
No.8/75/1, Mangalam Road,
Avalurpet, Anna Mangalam Village & Post,
Gingee Taluk. ... Petitioner

Vs.

The Commercial Tax Officer,
Gingee Assessment Circle, Gingee. ... Respondent

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 33774741707/2014-15 and to quash the order dated 15.10.2015 as passed contrary to the provisions of the TNVAT Act and without providing 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 Respondent : Mr.Manoharan Sundaram,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the impugned proceedings of the respondent in TIN 33774741707/2014-15 and to quash the order dated 15.10.2015 and to further direct the 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.

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

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that since the petitioner was not affording personal hearing, the respondent may be directed to decide the matter afresh.

4.On a perusal of the impugned order passed by the respondent, it is clear that the respondent has passed the impugned order without affording an opportunity of personal hearing to the petitioner. The respondent should have followed the provisions of Section 22(4) of the Act before passing the impugned order, which was not done by the respondent, which is violative of principles of natural justice.

5.In these circumstances, since the principles of natural justice was not followed by the respondent, the impugned order dated 15.10.2015 passed by the respondent is liable to be set aside. Accordingly, the same is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to decide the matter afresh, after affording due opportunity of personal hearing to the petitioner, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer ,
Gingee Assessment Circle, Gingee.

+1cc to Mr.P.Rajkumar, Advocate Sr.19050

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