IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No. 11643 of 2016

and WMP.Nos.10050 and 10051 of 2016

M/s. Sandhiya Cashews
Rep. by its Proprietrix,
Mrs. S.Thilagavathi,
No.580, Mariamman Koil Street,
Nadumettukuppam,
Nadumettukuppam Post,
Panruti - 607 103. .. Petitioner

v.

1. The Commercial Tax Officer
   Panruti (Rural) Assessment Circle,
   Panruti.

2. The Manager
   Tamil Nadu Mercantile Bank,
   Panruti Branch,
   Panruti. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in TIN 33584501688/2014-15 and quash the order, dated 09.11.2015 as passed contrary to the provisions of the TNVAT Act and also 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 further direct the first respondent to pass a fresh assessment order after granting reasonable opportunity to the petitioner.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.S.Kanmani Annamalai
AGP (T) for R1

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus, to call for the impugned proceedings of the first respondent in TIN 33584501688/2014-15 and quash the order, dated 09.11.2015 and further direct the first respondent to pass fresh assessment order, after granting reasonable opportunity to the petitioner.

2. It is the case of the petitioner that the first respondent had passed the impugned order, without affording an opportunity of personal hearing and also without considering the objections, which is violative of principles of natural justice.

3. Mr.P.Rajkumar, learned counsel appearing for the petitioner submitted that already the petitioner had paid 25% of the tax.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the first respondent submitted that since the first respondent has passed the impugned order, without affording an opportunity of personal hearing and considering the objections, the impugned order may be set aside and the first respondent may be directed to decide the matter afresh.

5. In view of the submissions made by the learned counsel on either side, the impugned order, dated 09.11.2015 is set aside, for the reason that the first respondent had passed the order, without affording an opportunity of personal hearing and considering the objections, which is violative of principles of natural justice. The matter is remitted back to the first respondent, to decide the matter afresh, after affording due opportunity of personal hearing to the petitioner and considering the objections filed by the petitioner, on merits and in accordance with law. Since the petitioner had already paid 25% of the tax liability, the attachment made by the respondents in respect of the petitioner's Bank Account is raised.

With this observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Commercial Tax Officer
   Panruti (Rural) Assessment Circle,
   Panruti.

2. The Manager
   Tamil Nadu Mercantile Bank,
   Panruti Branch, Panruti.

+1 cc to M/s.P.RajKumar Advocate sr.19419
+1 cc to Special Government Pleader (Taxes) sr.19872

W.P.No.11643 of 2016

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