

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1630 of 2016

and

WMP.No.1382 of 2016

Tvl.Zebro Officemate Private Limited,
rep. by its Managing Director,
33, Balfour Road, Kilpauk,
Chennai - 600 010. ... Petitioner

V.

The Assistant Commissioner (CT)
Ayanavaram Circle,
7th Floor, Dowlath Towers, Taylors Road,
Kilpauk, Chennai 600 010. ... Respondent

Prayer : Petition filed under Article 226 of the
Constitution of India praying for issuance of a writ of
certiorari to call for the records of the respondent's order
dated 27.02.2015 made in TN.No.33711002681/2011-2012 and quash
the same.

For Petitioner ... Mr.G.Thilakavathi

For Respondent .. Mr.S.Kanmani Annamalai
Special Government Pleader (Taxes)

ORDER

Heard Mrs.G.Thilakavathi, learned counsel for the
petitioner and Mr.S.Kanmani Annamalai, learned Special
Government Pleader (Taxes) accepting notice for the respondent
and with their consent, the writ petition is taken up for final
disposal at the admission stage itself.

2.The petitioner is a Registered Dealer engaged in the business of Manufacture and Trading of Modular Office furniture and equipments. The petitioner is a registered dealer having registration under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter called the TNVAT Act, 2006) .

3.The petitioner has submitted the returns for the year 2011-2012 and the assessment was deemed to have been completed in terms of Section 22(2) of the TNVAT Act, 2006. It appears that the Enforcement Wing Officials of the respondent Department inspected the place of business of the petitioner on 28.05.2013 and pursuant to which, the respondent proposed to revise the assessment under Section 27(1)(a) of the TNVAT Act, 2006 and also proposed to reverse the Input Tax credit as contemplated under Section 27(2) of the TNVAT Act, 2006 and levy penalty under Section 27(4)(ii) and 27(3)(c) of the TNVAT Act 2006. Accordingly, a notice was issued to the petitioner calling for their objections. The petitioner on 13.08.2014 has submitted his objections for each of the issues, which was pointed out. Thereafter, the respondent/the Assessing Officer, by the impugned order, overruled the objections and confirmed the proposal in the revision notice apart from imposing penalty. This order is impugned in this writ petition.

4.The primary ground on which the impugned order has been challenged is by contending that no opportunity of personal hearing was granted. In fact, the record of the proceedings also does not reveal that the respondent had given an opportunity of personal hearing to the petitioner which has been held to be a prerequisite and mandatory.

5.The law on the subject is well settled over which there is no dispute raised by the learned Special Government Pleader, who would fairly state that an opportunity of personal hearing is a prerequisite and it is mandatory.

6.In the light of the above, this Court is inclined to interfere with the impugned order on the sole ground that an opportunity of personal hearing was not granted to the petitioner. All other issues left open to the respondent afresh on remand.

7.In the result, the Writ Petition is allowed and the impugned order of the assessment is quashed and the matter is remanded back to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner or their authorised representative and after

considering all the contentions raised and the documents produced by the petitioner, the respondent shall pass a speaking order on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar.

/true copy/

Sub Asst. Registrar.

Sgl

To

The Assistant Commissioner (CT)
Ayanavaram Circle,
7th Floor, Dowlath Towers, Taylors Road,
Kilpauk, Chennai 600 010.

+1 C.C. To M/s.G.Thilakavathi, Advocate SR.No. 3098.

+1 C.C. To The Special Government Pleader (T), High Court,
Madras, SR.No. 2861.

W.P.No.1630 of 2016

ALA (CO)
MSR 09.02.2016

सत्यमेव जयते

WEB COPY