IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2016

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.1720 to 1722 of 2016

& WMP.Nos.1498 to 1503 of 2016

M/s. R.K.Motors,
Rep.by its Managing Partner-K.Balamurugan,
No.58/2-A, Chennai Main Road,
Villupuram-605 602,
Villlupuram District. ... Petitioner in all Wps.

Versus

The Assistant Commissioner(CT),
Villupuram-I,
Villupuram,
Villupuram District. ... Respondent in all WPs.

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN.33384681442/2011-12, TIN.33384681442/2012-13 and TIN.33384681442/2013-14 respectively dated 31.10.2015 and quash the same(in all WPs).

For Petitioner (in all WPs) : Mr.S.Rajasekar

For Respondent (in all WPs) : Mr.S.Kanmani Annamalai, Spl.G.P.

ORDER

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader, who accepts notice on behalf of the respondent and with their consent, these writ petitions are taken up for final disposal.

2. The petitioner is a registered dealer in Tractors, Two Wheelers, Spares and Accessories at Villupuram under the

provisions of TNVAT Act, 2006 and they have also got various branches in other places. The petitioner is an assessee on the files of the respondent. What is challenged in the writ petitions is to the order of the assessment passed by the respondent for the assessment years 2011-2012, 2012-2013 and 2013-2014 under impugned proceedings or revision of assessment under Section 27 (1) (a) of the TNVAT Act 2006. The only ground on which the impugned orders are challenged is on the ground that though the Authority has received their objections, wherein a request was also made for personal hearing, it is stated in the impugned order as if the petitioner/dealer have not filed any objections even after granting three chances.

3. The learned counsel for the petitioner submitted that the petitioner has given his reply dated 23.03.2015 for the notice dated 27.02.2015 and a copy of such reply has been filed in the typed set of papers.

4. It is seen that the reply is a very brief reply stating that the Tabulation Sheets has been enclosed showing the actual figures during the relevant years and that the same is self Explanatory and a further request for personal hearing has also been made to explain the Tabulated Sheets.

5. The learned counsel for the petitioner further submits that this reply alongwith Tabulated Sheets was served in the Office of the respondent on 23.03.2015 and an acknowledgment has been issued in the delivery book containing the signature, date and seal of the concerned Officer. Therefore, it is submitted that a reply given by the petitioner was not put up before the Assessing Officer and the Assessing Officer, without affording an opportunity of personal hearing to the petitioner, has passed the impugned orders of assessment.

6. The Learned Special Government Pleader appearing for the respondent submitted that though there may be an acknowledgment produced by the petitioner to show that a reply was given, the reply dated 23.03.2015 is bereft of particulars. As far as the request made by the petitioner for grant of personal hearing is concerned, the learned Special Government Pleader cannot defend the impugned orders since there is no finding rendered by the Assessing Officer that an opportunity for personal hearing was granted, which is held to be mandatory in several decisions of this Hon'ble Court and the Hon'ble Supreme Court.

7. Hence, this Court is of the view that the petitioner is entitled for an opportunity of personal hearing. However, for such reason, this Court is not inclined to quash the order. However, this Court is of the opinion that the impugned orders may be treated as a show cause notice, since the earlier objections of the petitioner dated 23.03.2015 is very brief.

8. In the light of the above, these writ petitions are disposed of by directing the petitioner to treat the impugned proceedings as a show cause notice and submit a detailed explanation alongwith relevant materials within a period of two weeks from the date of receipt of a copy of this order. On receipt of the explanation alongwith relevant details, the respondent shall afford an opportunity of personal hearing to the petitioner and pass fresh orders on merits and in accordance with law within a period of three weeks therein. The petitioner is directed to cooperate in the Assessment Proceedings. No costs. Consequently, connected miscellaneous petitions are closed.

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Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

The Assistant Commissioner(CT),
Villupuram-I, Villupuram,
Villupuram District.

+3 C.C. to MR.S.RAJASEKAR, Advocate Sr.No.3028.

+2 C.C. to The Special Government Pleader (Taxes), High Court, Chennai-104. Sr.No.3188.

W.P.No.1720 to 1722 of 2016
& WMP.Nos.1498 to 1503 of 2016

CTK (CO)

SM 02/02/2016