IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30013 of 2015 &
M.P.No.1 of 2015

M/s.T.R.Saw Mill,
7/300, Upper Bazaar,
Manjoor, Kundah Bridge Post,
The Nilgiris-643 219.
Rep. by its Proprietor, T.Rajappan .. Petitioner

Versus

The Commercial Tax Officer,
Udhagai (South) Assessment Circle,
Ooty, The Nilgiris. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the respondent in TIN 33922601174/2011-12, dated 14.08.2015, quash the same and direct the respondent to provide an opportunity to the petitioner to cross-examine the third parties whose evidences have been relied upon.

For Petitioner : Mr.S.Ravikumar
For Respondents : Mr.V.Haribabu
Additional Government Pleader

O R D E R

The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (herein after referred to as the 'Act'), has filed this Writ Petition, challenging the order of assessment dated 14.08.2015, for the assessment year 2011-12.

2. Though the petitioner has challenged the impugned proceeding on various grounds, the main ground on which the petitioner has questioned the impugned proceeding is on the ground of violation of principles of natural justice. Though the respondent has extracted the objections given by the petitioner, without assigning any specific reasons, rejected the objections and passed the impugned proceedings, mainly on the ground that the petitioner did not provide certain

documents, which according to the Assessing Officer are basic documents.

3. The petitioner would state that though three summons were issued dated 03.10.2014, 09.01.2015 and 06.02.2015, all the three summons were served on him only on 09.02.2015. This averment has been specifically made in paragraph No.15 of the affidavit filed in support of the Writ Petition. However, there is no reply given by the respondent to controvert the same, which is evident from the written instructions given by the respondent to the learned Additional Government Pleader.

4. One more issue is that on 17.08.2015, the petitioner made a request for adjournment, enclosing a Doctor Certificate, which was received by the Office of the respondent. However, without considering the request for adjournment, that too, on medical grounds, the order has been passed, as if, it has been made on 14.08.2015. In the light of the same, it is evidently clear that there is serious violation of principles of natural justice.

5. That apart, it is brought to the notice of this Court that the respondent / Assessment Officer, had sent a deviation proposal to the Joint Commissioner. In such circumstances, it is now known, as to how the respondent has confirmed the proposals in the show-cause notice and passed the assessment orders.

6. Hence, for all the above reasons, the Writ Petition is allowed and the impugned order is quashed and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, call for the records and peruse the same and then proceed to complete the assessment in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

r n s

To

The Commercial Tax Officer,
Udhagai (South) Assessment Circle,
Ooty, The Nilgiris.

1 cc to Special Government Pleader, (Taxes), sr.34782

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ctk co
kra 12.07.2016