IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2016

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.39911 to 39915 of 2015
and M.P.Nos.1 of 2015 in each W.P.

M.Abdul Latheef .. Petitioner in all W.Ps.

vs.

The Commercial Tax Officer (CT),
Sirkazhi Assessment Circle,
Sirkazhi. .. Respondent in all W.Ps.

PRAYER in W.P.No.39911/2015 : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus call for the records of the case from the file of the respondent herein, quash the impugned exparte order of assessment in TIN/33034001131/2009-10, 2010-11, 2011-12, 2012-13, 2013-14 for TNVAT Assessment Year 2009-10, 2010-11, 2011-12, 2012-13, 2013-14 dated 26.11.2015 served on 04.12.2015 and direct the respondent to grant an opportunity of personal hearing on individual dates for producing all the documents.

For Petitioner in all W.Ps. : Ms.Lakshmi Sriram

For Respondent in all W.Ps : Mr.S.Kanmani Annamalai, Additional Government Pleader

C O M M O N   O R D E R

In umpteen number of cases, this Court directed the Assessing Authorities of Commercial Taxes Department to follow the principle of natural justice before passing the Assessment Orders. Despite the same, the authorities are passing orders without providing opportunity of being heard to the Assessees. This is a case of such nature.

2. For the Assessment Year 2009-2010, having spent more than four years after completion of the Assessment year, the respondent passed the impugned order without following the principle of natural justice. That is, challenged in

W.P.No.39911 of 2015. Similarly, the impugned orders in others writ petitions are pertaining to the Assessment Years 2010-2011, 2011-2012, 2012-2013, and 2013-2014.

3. According to the learned counsel, the petitioner who is a Works Contractor got registered with the respondent under Tamil Nadu Value Added Tax Act, 2006. An inspection was conducted on 28.05.2014 and 29.05.2014 on the petitioner's premises by the Enforcement Wing and thereafter, based on the report, notices were issued on 03.06.2015 alleging certain defects, for which, the petitioner filed detailed replies on 09.06.2015. Thereafter, revised notices dated 07.10.2015 were issued and replies dated 20.11.2015 were filed by the petitioner seeking an opportunity of personal hearing, for producing all the original documents, before passing of any orders. However, without any orders in writing rejecting the said request or without giving an opportunity of personal hearing, the impugned orders dated 26.11.2015 came to be passed. Therefore, the learned counsel seeks to quash the same.

4. The learned Additional Government Pleader, on the other hand, supported the impugned orders.

5. Heard both sides and perused the materials available on record.

6. For the Pre-Assessment Notices as well as revised notices, the petitioner filed replies and sought opportunity to produce records. But the same was not considered thereby making those orders ab initio null and void. The respondent is duty bound to follow the provisions of Sections 22(4) or 27(2)(3) of Tamil Nadu Value Added Tax Act, 2006 while making the orders of Assessment, which he blindly failed. Hence, this Court is of the considered view that on the failure of not providing an opportunity of personal hearing, the impugned orders are liable to be set aside. Accordingly, the impugned orders are set aside and the matters are remanded back to the respondent for passing fresh orders, after following the principles of natural justice by providing an opportunity of personal hearing to the petitioner for filing necessary documents, as required.

7. The respondent is directed to permit the petitioner to file the documents as well as to have an opportunity of personal hearing within two weeks from the date of receipt of this order by proper communication. On receipt of such communication, the petitioner shall appear before the authority, as directed and produce all the documents and details. Thereafter, necessary orders be passed within a period of six weeks. If the petitioner fails to avail the opportunity so granted, it is open to the authority to pass appropriate orders in the manner known to law, without any further delay.

8. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

The Commercial Tax Officer (CT),
Sirkazhi Assessment Circle,
Sirkazhi.

1 cc to Government Pleader (Taxes), Sr. 2209
5 ccs to Lakshmi Sriram, Advocate, Sr. 2029

W.P.Nos.39911 to 39915 of 2015

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