In the High Court of Judicature at Madras

Dated: 22.12.2016

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The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.44112 of 2016
& WMP No.37923 of 2016

M/s.Sri Durga Plastics
rep. by its Partner
Rajesh
.... Petitioner

Vs.

1. Commercial Tax Officer,
Office of the Assistant Commissioner (CT),
Chepauk Assessment Circle,
PAPJM Annex Building, First Floor,
No.1, Greams Road, Chennai - 600 006.

2. The Assistant Commissioner (CT),
Station Road, Chromepet,
Chennai - 600 044.
.... Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the entire records in connection with the impugned notice sated 16.09.2016 in TIN:33690661446/2014-15 and subsequent assessment order dated 24.10.2016 in TIN: 33690661446/2014-15 issued by the 1st respondent, quash the same and consequently direct the 1st respondent to consider the document to be produced by the petitioner firm, after affording an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.K.V.Subramanian
For Respondents : Mr.S.Kanmani Annamalai, AGP

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O R D E R

1. Issue Notice. Mr.S.Kanmani Annamalai, accepts notice for the respondents.

2. With the consent of counsel for parties, the Writ Petitions are taken up for hearing and final disposal.

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3. The petitioner assails the impugned order on two (2) grounds: first, that the impugned order has been passed without giving due opportunity to the petitioner to file its objections to the notice dated 16.09.2016.

3.1. It is, however, conceded by the petitioner, that the objections could not be filed, as the consultant of the petitioner had expired. The fact that the objections had not been filed was not known to the petitioner.

3.2. Second: that the order, in any case, is a non-speaking order.

4. To my mind, the Revenue cannot be blamed for not giving time to file objections, as it would have no knowledge of the death of the consultant engaged by the petitioner.

4.1. In so far as the other ground is concerned, a perusal of the impugned order would show that it is largely proceeds on the basis that there are no objections on record.

5. In these circumstances, I have put to Mr.S.Kanmani Annamalai, as to whether the Department could revisit the matter by giving an opportunity to the petitioner to file its objections.

6. Mr.S.Kanmani Annamalai says that, in the interest of justice, one more opportunity could be given to the petitioner.

7. Accordingly, the impugned order is set aside. The petitioner's authorised representative will appear before respondent No.1 on 04.01.2017 at 11.00 a.m. In case, the date given above, is not convenient to respondent No.1, a fresh date would be given, which would be proximate in point of time to the date fixed by the Court.

7.1. Needless to say, that before passing a fresh order, respondent No.1 will give personal hearing to the petitioner's authorised representative. Respondent No.1 will, thereafter, pass a fresh order with due expedition, though, not later than six (6) weeks from the date of the conclusion of the hearing.

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8. It is made clear, that the fact that this Court has set aside the impugned order will not impact the merits of the case.

9. The Writ Petition is, accordingly, disposed of leaving the parties to bear the costs. Consequently, connection Miscellaneous Petition stands closed.

Sd/-
Assistant Registrar(CS IV)

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Sub Assistant Registrar

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To

1. Commercial Tax Officer,
Office of the Assistant Commissioner (CT),
Chepauk Assessment Circle,
PAPJM Annex Building, First Floor,
No.1, Greams Road, Chennai - 600 006.

2. The Assistant Commissioner (CT),
Station Road, Chromepet,
Chennai - 600 044.

+1cc to Mr.K.V.Subramanian, Advocate Sr.74907
+1cc to the Government Pleader Sr.75005

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srg 04/01/2017

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