IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.5298 of 2016
and W.M.P.No.4635 of 2016

M/s.Abi Nila Agency
rep by its Proprietrix R.Lakshmi
No.17, Matha Koil Street,
Panruti ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Panruti. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent in TIN 33144500863/2012-13 dated 31.08.2015, quash the same and further direct the respondent to pass orders after affording an opportunity to file objections and an opportunity of being heard.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the respondent in TIN 33144500863 for the assessment year 2012-13 dated 31.08.2015 and quash the same and further direct the respondent to pass orders after affording an opportunity to file objections and an opportunity of being heard.

2.It is the case of the petitioner that the respondent has passed the impugned order dated 31.08.2015 without giving an opportunity to the petitioner to file their objections and without giving them an opportunity of personal hearing.

3.This Court, while granting stay on 12.02.2016, directed the petitioner to pay 25% of the disputed tax before the respondent within a period of two weeks.

4.The learned counsel for the petitioner submitted that since the Officers of the Commercial Tax Department were on strike, the petitioner could not make the payment of 25% of the disputed tax as directed by this Court so far and that today being the last date for payment, the petitioner would make the payment of 25% of the disputed tax before the respondent today itself.

5.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) appearing for the respondent submitted that on payment of 25% of the disputed tax, since the petitioner was not given an opportunity to file their objections and not given an opportunity of personal hearing, the impugned order can be set aside and the matter may be remanded back to the respondent for fresh consideration.

6.Having regard to the submissions made by the learned counsel on either side, since the petitioner was not given an opportunity to file objections and not given an opportunity of personal hearing, it is a clear violation of principles of natural justice. Therefore, the impugned order dated 31.08.2015 is liable to be set aside. Accordingly, the same is set aside. On payment of 25% of the disputed tax by the petitioner, as directed by this Court on 12.02.2016 today, the matter is remanded back to the respondent for fresh consideration. The respondent is directed to give an opportunity to the petitioner to file their objections and after affording them an opportunity of personal hearing, shall decide the matter afresh on merits and in accordance with law. The petitioner shall file their objections within a period of two weeks from the date of receipt of a copy of this order.

7.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.
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-s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

To
The Deputy Commercial Tax Officer,
Panruti.

+ 1 cc to Mr.V.Sundareswaran Advocate, SR 12370
+ 1 cc to Government Pleader, High Court, Madras SR 12370

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