IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.5369, 5370 and 5371 of 2016

and

WMP Nos.4681, 4682 and 4683 of 2016

Tvl.Vanco Exports,
rep by TA Viswanathan,
Proprietor
54-A, Devengapet Street No.1,
Coimbatore

...... Petitioner in all the writ petitions

vs.

The Assistant Commissioner (Commercial Taxes),
R S Puram East (Circle),
Coiimbatore - 641 018

.... Respondent in both the writ petitions

Writ Petitions filed under Article 226 of the Constitution of India to issue Writs of Certiorarified Mandamus to call for the records comprised in impugned Order Nos.859748/2011-12 dated 29.05.2015 and 859748/2012-13 dated 29.05.2015 on the file of the respondent and quash the same and consequently direct the respondent to pass an appropriate order after issuing notice and giving an opportunity of personal hearing.

For Petitioner : Ms.Naveena D-Mah

For Respondent : Mr.S. Manoharan Sundaram AGP

COMMON ORDER

The petitioners have filed the above writ petitions to issue writs of Certiorarified Mandamus to call for the records comprised in impugned Order Nos.859748/2011-12 dated 29.05.2015 and 859748/2012-13 dated 29.05.2015 on the file of the respondent and quash the same and consequently direct the respondent to pass an appropriate order after issuing notice and giving an opportunity of personal hearing.

2. The contention raised by the petitioner in the writ petitions is that the petitioner was not given an opportunity of personal hearing, which contemplated under Sec.22 (4) of the Tamil Nadu Value Added Tax Act, 2006. That apart, the learned counsel for the petitioner submitted that the petitioner was not issued with any notice prior to the passing of the impugned orders.

3. Mr.S. Manoharan Sundaram, learned Additional Government Pleader, taking notice for the respondent, submitted that the respondent may be directed to decide the matter afresh, after giving an opportunity of personal hearing to the petitioner and issuing notice to the petitioner.

4. Having regard to the submissions made by the learned counsel on either side and taking note of the fact that the petitioner was not given an opportunity of personal hearing, which is a mandatory provision under Sec.22(4) of the Tamil Nadu Value Added Tax Act, 2006, and that no notice was also issued to the petitioner, the impugned orders are liable to be set aside and accordingly, the impugned order Nos.859748/2011-12 dated 29.05.2015 and 859748/2012-13 dated 29.05.2015 are set aside and the matter is remitted back to the respondent to decide the matter afresh.

5. The respondent is directed to give an opportunity of personal haring to the petitioner as contemplated under Sec.22 (4) of the Tamil Nadu Value Added Tax Act, 2006 and issue notice to the petitioner and decide the matter afresh, on merits and in accordance with law.

6. With these observations, these writ petitions are allowed. No costs. Consequently, connected MPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (Commercial Taxes),
R S Puram East (Circle),
Coiimbatore - 641 018

+3 ccs to Mr.S.Durairaj Advocate sr.9310, 9309 & 9308
+1 cc to the Special Government Pleader sr.9357

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