IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM

THE Hon'ble Mr.JUSTICE M. DURAISWAMY

W.P.No.8791 of 2016
and
WMP No.7795 of 2016

Saibaba Surgicare,
rep by its Sole Proprietor,
A. Mahendran,
423, N.S.R. Road,
Saibaba Colony,
Coimbatore ... Petitioner

vs

The Assistant Commissioner (CT),
Saibaba Colony Circle,
Coimbatore – 641 018
..... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in TIN No.33702062557/2013-14 dated 15.09.2015 and quash the same with the direction to re-do the assessment after providing an opportunity of being heard along with the return in FormI-1 sent on 13.2.2016.

For petitioner :Mr.N. Inbarajan

For respondent :Mr.S. Kanmani Annamalai
AGP (T)

ORDER

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The petitioner has filed the above writ petition to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in TIN No.33702062557/2013-14 dated 15.09.2015 and quash the same with the direction to re-do the assessment after providing an opportunity of being heard along with the return in FormI-1 sent on 13.2.2016.

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2. It is the case of the petitioner that without affording an opportunity of personal hearing, which is a mandatory provision under Sec.22(4) of TN VAT Act, 2006, the respondent had passed the impugned order dated 15.09.2015.

3. Mr.S. Kanmani Annamalai, learned Additional Government Pleader, taking notice of the respondent, submitted that since the respondent has not afforded an opportunity of personal hearing, as contemplated under Sec.22(4) of the Act, the respondent may be directed to decide the matter afresh, after affording an opportunity of personal hearing to the petitioner.

4. Having regard to the submissions made by the learned counsel on either side and taking note of the fact tht the respondent has not afforded an opportunity of personal hearing, which is a mandatory provision under Sec.22(4) of the Tamilnadu Value Added Tax Act 2006, I am of the considered view that the impugned order dated 15.09.2015 is liable to be setaside and accordingly, the same is set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to file their objections within a period of two weeks from the date of receipt of copy of this order and the respondent is directed to decide the matter afresh, taking into consideration the objections, filed by the petitioner and after affording due opportunity of personal hearing to the petitioner, and pass orders on merits and in accordance with law. With the above observation, the writ petition is disposed of . No costs. Consequently, connected MP is closed.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS VI)

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//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Saibaba Colony Circle,
Coimbatore - 641 018.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.14925
+1cc to the Government Pleader, S.R.No.15133

W.P.No.8791/2016

mg(CO)
srg(17/03/2016)

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