IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.9745 of 2016 and
W.M.P.No.8728 of 2016

Sunstrike Telecom Private Limited,
(Formerly known as S.M.A.Impex Pvt Ltd.,)
rep by its Authorised Signatory,
No.54 (Old No.40), Kasi Estate,
4th Street, Ashok Nagar,
Chennai - 600 093. ... Petitioner

Vs.

The Commercial Tax Officer,
Nolambur Assessment Circle,
No.176, MTH Road,
Villivakkam, Chennai - 600 049. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records of the respondent in TIN:33461348187/2013-14 dated 28.05.2015 and to quash the order passed therein and further direct the respondent to complete the assessment by giving reasonable opportunity and personal hearing to the petitioner.

For Petitioner : Mr.A.P.Srinivas

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 writ of certiorarified mandamus to call for the entire records of the respondent in TIN:33461348187/2013-14 dated 28.05.2015 and to quash the same and further direct the respondent to complete the assessment by giving reasonable opportunity and personal hearing to the petitioner.

2.The main contention raised by the petitioner is that the respondent had passed the impugned order without following the mandatory provisions of Section 22 (4) of the TNVAT Act. As per

Section 22(4) of the Act, the respondent should have given personal hearing to the petitioner before passing the impugned order. In the absence of personal hearing given to the petitioner, it clearly violates the principles of natural justice.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since an opportunity of personal hearing was not given to the petitioner, the impugned order may be set aside and the matter may be remanded to the respondent for fresh consideration.

4.In these circumstances, taking note of the fact that the respondent had passed the impugned order without affording an opportunity of personal hearing to the petitioner, the impugned dated 28.05.2015 is liable to be set aside. Accordingly, the same is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to decide the matter afresh, after affording due opportunity of personal hearing to the petitioner and after considering the objections raised by the petitioner.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

The Commercial Tax Officer,
Nolambur Assessment Circle,
No.176, MTH Road,
Villivakkam, Chennai - 600 049.

+1 cc to the Special Government Pleader (Taxes) sr.16880
+1 cc to Mr.A.P.Srinivas Advocate sr.16841

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