IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

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THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.9796 of 2016 and
W.M.P.No.8783 of 2016

M/s.Guru Raghavendra
Foundations Private Limited
rep by its Director B.Murugeshwaran
No.96/1, New No.35, R Block,
3rd Main Road, Anna Nagar,
Chennai - 600 040. ... Petitioner

Vs.

1.The Commercial Tax Officer,
Amaindakarai Assessment Circle,
F/50, Anna Nagar, First Avenue,
Anna Nagar East, Chennai - 102.

2.The Principal Secretary/
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005. ... Respondents

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 1st respondent in TIN 33611026986/2014-15 dated 29.12.2015 and to quash the same as passed based on the details gathered from the website but without providing the same to the petitioner and so passed in violation of principles of natural justice and also contrary to the Circular No.10/2015 dated 01.04.2015 of the 2nd respondent and to further direct the 1st respondent to provide the web report and the connected details to the petitioner to enable the petitioner to file its detailed objections and then pass orders in accordance with law after granting personal hearing to the petitioner and quash the same.

For Petitioner : Mr.P.Rajkumar
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 records of the 1st respondent in TIN 33611026986/2014-15 dated 29.12.2015 and to quash the same as passed based on the details gathered from the website but without providing the same to the petitioner and so passed in violation of principles of natural justice and also contrary to the Circular No.10/2015 dated 01.04.2015 of the 2nd respondent and to further direct the 1st respondent to provide the web report and the connected details to the petitioner to enable the petitioner to file its detailed objections and then pass orders in accordance with law after granting personal hearing to the petitioner.

2.It is the case of the petitioner that though the petitioner sought for web report, the same was not furnished to them and therefore, the petitioner had no opportunity to file their objections with regard to the same. That apart, the petitioner also contended that without affording an opportunity of personal hearing, the respondent had passed the impugned order. The learned counsel for the petitioner also relied upon the Circular No.10/2015 issued by the 2nd respondent dated 01.04.2015, wherein it has been stated as follows:

> "It can be noted that unless invoice-wise data of mismatches are provided for each dealer, the dealer under analysis will not be able to come to a conclusion as to specific transactions for which tax is being demanded. Such an act of not providing invoice-wise data of mismatch would be tantamount to violation of principles of natural justice and will form the simple basis for such notices being struck down by appellate forum and the High Court. Hence, it is expected that assessment officers must mandatorily adhere to the principles of natural justice while carrying out revision of assessment."

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that since the impugned order has been passed by the respondent without affording an opportunity of personal hearing, the same can be set aside and the 1st respondent may be directed to decide the matter afresh, after affording due opportunity of personal hearing.

4.In these circumstances, I am of the view that the petitioner should be given an opportunity of personal hearing to putforth their case. The impugned order dated 29.12.2015 is liable to be set aside. Accordingly, the same is set aside and the matter is remanded to the respondent for fresh consideration. The petitioner shall file an application seeking for the copy of the web report and other documents and the 1st respondent shall produce the same to the petitioner within a week's time from the date of receipt of the application. The petitioner shall file their objections within two weeks from the date of receipt of the documents and the 1st respondent is directed to consider the objections filed by the petitioner and after affording an opportunity of personal hearing, shall decide the matter afresh on merits and in accordance with law.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer,
Amaindakarai Assessment Circle,
F/50, Anna Nagar, First Avenue,
Anna Nagar East, Chennai - 102.

2.The Principal Secretary/
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

+1cc to M/s.P. P.Rajkumar, Advocate, S.R.No.16757

+1cc to the Special Government Pleader, S.R.No.16882

ak(CO)
EU(23/03/2016)

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