BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2016

CORAM :

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P(MD)Nos.21457 and 21458 of 2016
and
W.M.P(MD)Nos.15346 and 15336 of 2016

T.George Stephen ... Petitioner in both WPs

vs.

The Commercial Tax Officer,
Thuckalay,
Kanyakumari District. ... Respondent in both WPs

Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order issued by the respondent in TIN 33196162203/2011-12(D.No.49) &33196162203/2010-11(D.No.4) dated 16.06.2016 and to quash the same as illegal, arbitrary and in gross violation of principle of natural justice and consequently direct the respondent to consider the reply submitted by the petitioner dated 13.05.2016 and pass fresh orders on merit after granting to the petitioner an opportunity of personal hearing.

For Petitioner : Mr.S.Veeranasamy
For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

COMMON ORDER

The impugned orders dated 16.06.2016, demanding to pay the tax of Rs.11,68,752/- and Rs.6,12,880/- respectively, are under challenge.

2.The learned counsel for the petitioner would submit that opportunity of personal hearing was not given to the petitioner before passing the impugned orders and the orders suffer from violation of principles of natural justice as well as the Circular issued by the Income-Tax Department itself and therefore, the orders are liable to be set aside.

3.The learned Additional Government Pleader appearing for the respondent would submit that in order to show bona fide, at least, 10% of the tax demanded may be directed to be paid by the petitioner to the respondent and on such payment, the matter may be remitted back to the respondent, for fresh consideration.

4.A mere perusal of the orders impugned, would go to show that opportunity of hearing has not been afforded to the petitioner before passing the same. Accordingly, subject to payment of 10% of the tax by the petitioner in both the cases, within a period of three weeks from the date of receipt of a copy of this order, the impugned orders would stand set aside and the matter is remitted back to the respondent, who shall provide sufficient opportunity to the petitioner, including personal hearing and then to pass appropriate orders in accordance with law forthwith.

With the above direction, the Writ Petitions stand allowed. No costs. Consequently, W.M.P(MD)Nos.15346 and 15336 of 2016 are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

nbi
To
The Commercial Tax Officer,
Thuckalay,
Kanyakumari District.

+1CC to Mr.S.Veeranasamy, Advocate Sr.No.67760
+1CC to spl.Government Pleader Sr.No.67947

GJM/RR/ME/SAR-3-25.1.17-2p-4C

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