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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.(MD)No.4023 of 2016
and
W.M.P.(MD).No.3609 of 2016

M/s.Innovaa Inkjet Technology,
Represented by its Proprietor S.Saravanan
West Ambikapuram,
Industrial Colony, Ariyamangalam,
Trichy.

...Petitioner

Vs.

1.The Assistant Commissioner(CT),
Tiruverumbur Assessment Circle,
Trichy.

2.The Authority for Clarification and Advance Ruling,
Ezhilagam, Chepauk,
Chennai- 600005.

... Respondents

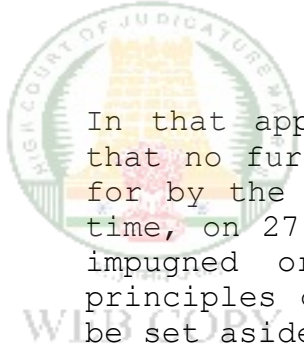
PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records in TIN 33113565460/2013-14, dated 27.01.2016 and quash the same as illegal, arbitrary, without jurisdiction and further direct the respondents to pass an order afresh after affording reasonable opportunity of being heard to the petitioner within such time as may be directed by this Court.

For petitioner	...	Mr.S.Karunakar
For respondents	...	Mr.R.Karthikeyan, Addl. Government Pleader

ORDER

The present Writ Petition has been filed to call for the records in TIN 33113565460/2013-14, dated 27.01.2016 and quash the same as illegal, arbitrary, without jurisdiction and further direct the respondents to pass an order afresh after affording reasonable opportunity of being heard to the petitioner, within a stipulated time.

2. The only point, which has been raised by the petitioner is that for the show-cause notice issued to the petitioner, dated 11.01.2016, he gave a reply, dated 25.01.2016, of course only seeking for time as he has given a Advance Ruling and he has not given a detailed reply.



In that application, the second respondent has passed an order stating that no further time will be granted meaning thereby 15 days time sought for by the petitioner has been granted. But, even before fifteen days time, on 27.01.2016 itself, without giving any opportunity of hearing the impugned order has been passed. Therefore, it is in violation of principles of natural justice and hence, the impugned order is liable to be set aside.

3. The learned counsel for the petitioner submitted that to show his bonafide, the petitioner is ready to deposit 15% of the demand made in the impugned order.

4. The learned Additional Government Pleader appearing for the respondents would contend that what he meant was, time extension was not granted.

5. However, as per the wordings made in the order, dated 21.01.2016 that no further time will be granted would mean that fifteen days time sought for by the petitioner, is given, but no further time will be given. But, before the 15 days time, the impugned order is passed, without giving opportunity of personal hearing.

6. In similar circumstances, I have ordered for setting aside the order in W.P(MD)No.2151 of 2016, vide order dated 18.02.2015, Paragraph Nos.5, 6 and 7 of the said order reads as follows:

5. The learned counsel for the respondent would contend that no doubt 15 days time has been granted, but he had given the reply only on the last date and that an opportunity of personal hearing is not mandatory in this matter.

6. Taking into consideration the Division Bench judgment of this Honourable Court, when the petitioner was granted 15 days time and the order has been passed even before the expiry, the impugned order is liable to be set aside. At the same time, the only request is that the respondent will consider the objection dated 23.12.2014.

7. Accordingly, the respondent is directed to consider the objection dated 23.12.2014 and if necessary, the petitioner will be given one personal hearing and on that day, the petitioner will appear before the respondent and he will not seek any further time and the respondent will pass appropriate orders accordingly.

7. In view of the above the impugned order is liable to be set aside. Hence, the following order is passed:

"The petitioner firm is directed to remit 15% of the disputed tax in question to the first respondent, within a period of ten days from the date of receipt of a copy of this order. On such payment, the order impugned in the Writ Petition shall stand set aside and the first respondent is directed to provide an opportunity of personal hearing and pass appropriate orders after considering the objections raised by the petitioner, on merits and in accordance with law, within a period of



three weeks, thereafter. The petitioner is directed to file their objection, without waiting for the copy of this order."

8. In the result, the Writ Petition is allowed with the aforesaid condition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar.

To

1.The Assistant Commissioner(CT),
Tiruverumbur Assessment Circle,
Trichy.

2.The Authority for Clarification and Advance Ruling,
Ezhilagam, Chepauk,
Chennai- 600005.

+1CC to Mr.S.Karunakar, Advocate, SR.No. 11080

+1CC to the Special Government Pleader, SR.No. 11370

W.P. (MD) No. 4023 of 2016
26.02.2016

AM/AN.MP/SAR-I/03.03.2016/3P/5C