BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2016

CORAM :

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition(MD)No.8792 of 2016
and
W.M.P(MD)No.6990 of 2016

M/s P.A.R. COCO Products,
rep. By its Partner R.Balamurugan
95/6 and 7, Periyappa Nagar Extn,
Palani - 624 601. ... Petitioner

Vs.

The Assistant Commissioner (CT)
Palani -1, Assessment Circle,
Palani. ... Respondent

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records in TIN 33786253689/2014-15 dated 10.07.2015 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass a assessment order afresh after affording a opportunity of being heard to the petitioner as contemplated under Section 22(4) of the Tamil Nadu Value Added Tax Act 2006.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.R.Karthikeyan
Addl. Govt. Pleader

O R D E R

This writ petition has been filed challenging the impugned order mainly on the ground that under Section 22(4) of the Tamil Nadu Value Added Tax Act 2006, it is mandatory that the petitioner should be given a personal hearing and when that has not been given as per Judgment of the Hon'ble Division Bench of Court reported in **[2010]33 VST 333 (Mad) (SRC Projects Private Limited vs. Commissioner of Commercial Taxes, Chennai and another)**, the order has got to be set aside. Whereas, the learned Addl. Govt. Pleader would point out that if the grievance of the petitioner is that personal hearing has not been given under Section 22(4), as specific provision is in built under Section 22(6) seeking for clarification of the rectification, that has to be done within one month, even that has not been done. In any way, the order dated 10.07.2015 is issued confirming the proposal and thereafter, they have come forward with this case.

2. No doubt under Section 22(4) it is mandatory that the personal hearing should be given, violation as contemplated by the Division Bench Judgment is illegal. But no steps have been taken under Section 22(6) merely because the petitioner is a new incumbent, that cannot be a reason.

3. Taking into consideration that there was a violation and the petitioner undertakes to pay 25% of the tax amount within a period of four weeks, the impugned order is set aside and the matter is remitted back to the authority concerned for fresh consideration. The petitioner as agreed will deposit 25% of the tax amount, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the authority will give a personal hearing and hear him and then pass appropriate orders, forthwith.

4. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(A.E)

/TRUE COPY/

Sub Assistant Registrar

To

The Assistant Commissioner (CT)
Palani -1, Assessment Circle,
Palani.

+1cc to M/S.S.Karunakar, SR NO: 25310/16 for petitioner Advocate.

Skn
JA-SK-SKN/SAR.III/6.6.16/2P-3C

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