IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.5416 of 2017 and
W.M.P.No.5745 of 2017

Tvl. Cauvery Constructions,
Represented by its Partner,
R.P.Moorthy,
No.102, Om Sakthi Koil 3rd Cross Street,
M.C.Road, Perundurai,Erode District.
... Petitioner

Vs

The Commercial Tax Officer,
Perundurai Assessment Circle,
Perundurai.
... Respondent

Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorari calling for the records on the files of the respondent in TIN No.33832924864/2015-16 dated 27.01.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice and issue such further writ, order or direction as this Hon'ble court may deem fit and proper in the circumstances of the case and render justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh
Government Advocate

ORDER

By consent, this writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition has been filed mainly on the ground that without providing opportunity, the impugned order came to be passed.

3. Mr.R.Senniappan, the learned counsel for the petitioner relied on the decision of this Court reported in (2011) 42 VST 61 (Mad) (EsjyapeeImpex (P) Ltd., Vs. Commercial Tax Officer, Sowcarpet-I Assessment Circle, Chennai and would submit that on similar facts, this Court has set aside the impugned order and directed the respondent to pass orders afresh after giving an opportunity to the petitioner.

4. Per contra, the learned Government Advocate would submit that by representation dated 12.12.2016, the petitioner has sought for three weeks time to produce the documents and the impugned order was passed after the expiry of five weeks and therefore, the petitioner cannot have any grievance.

5. It is seen that a similar submission of the learned Government Advocate was rejected in the above cited decision and this Court set aside the impugned order and granted liberty to the petitioner to produce the records.

6. Hence, in the light of the decision stated supra, the impugned order dated 27.01.2017 is set aside and the same is remanded back to the respondent for fresh disposal. The respondent shall complete the assessment after providing sufficient opportunity to the petitioner.

7. Accordingly, this writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Perundurai Assessment Circle,
Perundurai.

W.P.No.5416 of 2017