

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2017

CORAM

THE Hon'ble Mr.JUSTICE K.KALYANASUNDARAM

W.P.No.4919 of 2017
and WMP No.5153 of 2017

DCM Hyundai Limited,
No.02, Sri Ram Nagar,
Prakash Nagar Main Road,
Thiruniravur,
Chennai - 602 024

... PETITIONER

Vs

1. Appellate Deputy Commissioner (CT),
Chennai (South),
3rd Floor, PAP JM Building Annexe,
No.1 Greams Road,
Chennai - 600 006

2. Commercial Tax Officer
Avadi Assessment Circle,
No.9, Kasturibai Nagar, 2nd street,
Avadi, Chennai - 600 054

... RESPONDENT

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of CERTIORARIFIED MANDAMUS calling for the impugned proceedings of the First Respondent passed in AP No. 39/2015/CST-2009-10 DATED 10.11.2016 and quash the same and further direct the first respondent to re-hear the appeal on merits.

For Petitioner : Mr.N.Murali

For Respondent : Mr.A.Kanmani Annamalai
AGP (Taxes)

O R D E R

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

2. The writ petition is filed for issuance of writ of certiorarified mandamus calling for the impugned proceedings of the First Respondent passed in AP No. 39/2015/CST-2009-10 Dated

10.11.2016 and quash the same and further direct the first respondent to re-hear the appeal on merits.

3. The case of the petitioner is that aggrieved by the order of the second respondent, the petitioner preferred appeal before the first respondent in A.P.No. 39/2015/CST-2009-10 Dated 10.11.2016, but without issuing notice of personal hearing, the appeal was disposed of on merits. Hence, he should be given opportunity of personal hearing before the matter is decided by the first respondent.

4. The learned Additional Government Pleader appearing for the respondents would submit that the impugned order would reveal that the authorised representative of the petitioner appeared before the first respondent for five hearings and thereafter, for almost seven hearings, there was no representation for the petitioner. Hence, the first respondent disposed of the appeal on merits. It is further submitted that there is no illegality or irregularity in the disposal of the appeal by the first respondent.

5. The learned counsel for the petitioner in reply would submit that the normal practise is that at the time of final hearing, the Appellate Authority issues notice to the appellant and in similar circumstances, the first respondent himself has issued notice of final hearing but in this case, no notice was issued and it is against the principles of natural justice.

6. Considering the submissions made by the learned counsel on either side, this Court is of the opinion that the petitioner should be given opportunity of personal hearing before disposal of the appeal by the first respondent.

7. In such view of the matter, the writ petition is disposed of, setting aside the impugned order passed by the first respondent and the matter is remanded to the first respondent for fresh disposal. The first respondent shall dispose of the appeal, as expeditiously as possible, after providing opportunity of personal hearing to the petitioner. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

rgr

To

1. Appellate Deputy Commissioner (CT),
Chennai (South),
3rd Floor, PAP JM Building Annexe,
No.1 Greams Road,
Chennai - 600 006.

2. Commercial Tax Officer
Avadi Assessment Circle,
No.9, Kasturibai Nagar, 2nd street,
Avadi, Chennai - 600 054.

+1cc to Special Government Pleader (Taxes), High
Court, Madras. sr.13083

+1cc to Mr.N.Murali, Advocate sr.13475

W.P.No.4919 of 2017

ss(co)
ss(15/3/2017)



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