

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.11243 of 2017
and
WMP.No.12177 of 2017

M/s.Jaimurugan Textiles Limited,
Represented by its Managing Director,
Mr.T.R.Harisaran. Petitioner

Vs.

1. The State of Tamil Nadu
Represented by its Additional Chief Secretary (FAC),
Commercial Taxes Department,
Fort St. George,
Chennai - 9.
2. The Assistant Commissioner (CT),
Leigh Bazaar Circle,
Salem. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, calling for the records of the first respondent in the impugned proceedings in Letter No.12488/D2/2016-3 dated 03.04.2017 and quash the same as passed without considering the application dated 30.09.2016 filed by the petitioner under section 31 of the TNVAT Act in a fair and judicious manner and therefore passed contrary to the principles of natural justice.

For Petitioner : Mr. P.Rajkumar
For Respondents : Mr.K.Venkatesh
Government Advocate

ORDER

Mr.K.Venkatesh, learned Government Advocate, takes notice for the respondents. By consent of the parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The petitioner is aggrieved by the order passed by the first respondent dated 03.04.2017, wherein and whereby, the petitioner's request for waiver of interest was rejected.

4. The learned counsel for the petitioner by inviting the earlier order passed by this Court in W.P.Nos.5103 to 5115 of 2017, dated 01.03.2017, submitted that the present impugned order was passed by the first respondent without affording an opportunity of hearing to the petitioner, even though, such opportunity was directed to be given in the earlier order. He also invited this Court's attention that the impugned order does not disclose any reason for rejecting the request for waiver of payment of interest.

5. Mr.K.Venkatesh, learned Government Advocate, fairly submitted that the first respondent has not given opportunity of hearing to the petitioner, as directed by this Court earlier and that the impugned order does not disclose any reason for rejection.

6. Upon considering the rival submissions of the parties and on perusing the impugned order, this Court is satisfied that the same cannot be sustained for two reasons; firstly, the same came to be passed without affording any opportunity of hearing to the petitioner, especially when this Court has already directed to do so. Therefore, it violates the principles of natural justice. The second reason being that the impugned order does not disclose any reason for rejection. Therefore, it is a non-speaking order, which cannot be sustained. On both the reasons, this Court is satisfied to set aside the impugned order and remit back the matter to the first respondent for consideration.

7. Accordingly, this writ petition is allowed and the impugned order is set aside. The matter is remitted back to the first respondent for passing fresh orders on its own merits and in accordance with law, after giving due opportunity of hearing. Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

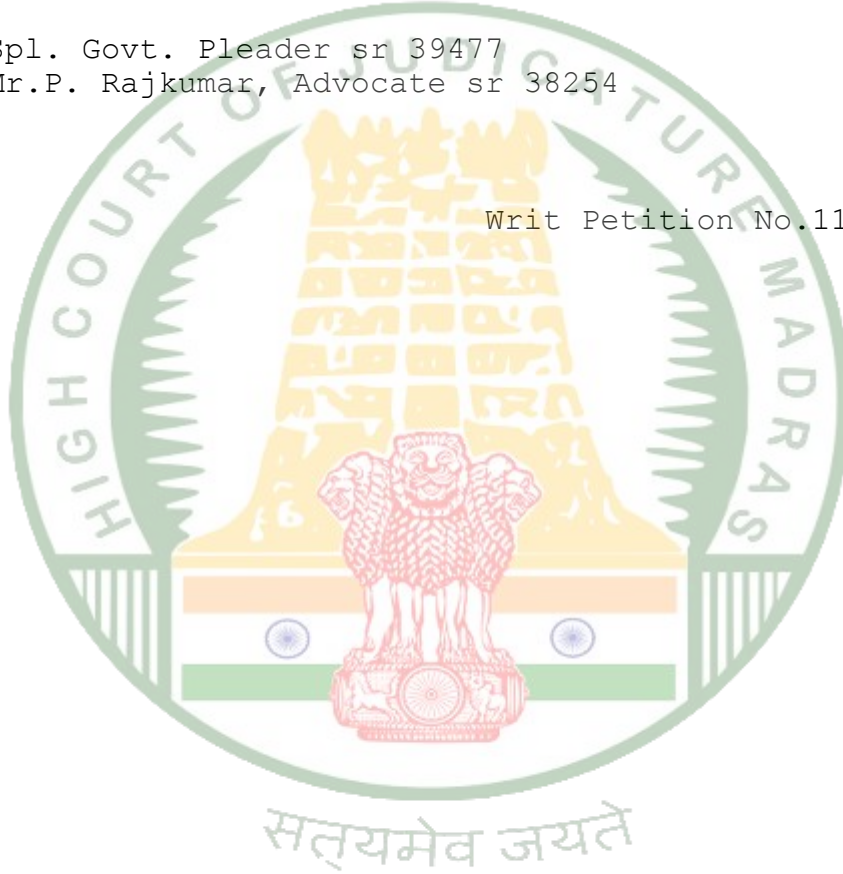
To

1. Additional Chief Secretary (FAC),
Commercial Taxes Department,
Fort St. George,
Chennai - 9.
2. The Assistant Commissioner (CT),
Leigh Bazaar Circle,
Salem.

+1 CC to Spl. Govt. Pleader sr 39477
+1 CC to Mr.P. Rajkumar, Advocate sr 38254

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KJI (CO)
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