IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.31585 of 2017
and W.M.P.No.34673 of 2017

Annam Software Private Limited,
Represented by its Director,
Kumar Annadurai,
102/1, Ramalingapuram,
Vadavalli, Coimbatore .. Petitioner

Vs.

The Assistant Commissioner (CT)
Velandipalayam Assessment Circle,
Coimabtore. .. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the respondent in TIN:33836204240/2012-13 dated 09.08.2017 and quash the same.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.K.Venkatesh
Government Advocate

ORDER

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. Though the writ petition has been adjourned on three earlier occasions to enable the respondent to given written instructions to the learned Government Advocate, it appears that the respondent has spoken to the learned Government Advocate but till date he has not given any written instructions. Therefore, this Court does not propose to adjourn the matter any further and has taken up the case for disposal.

2.The short ground on which the impugned order has been challenged is on the ground of violation of principles of natural justice. The impugned order has been passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as "TNVAT Act"). If that be so, opportunity of personal hearing ought to have been granted to the petitioner. This has not been done. Further, it is seen that certain reasons assigned in the impugned order have been mentioned for the first time which did not form part of the revision notice dated 07.07.2017. Therefore, to that extent, the petitioner did not have opportunity to put forth their objections. Thus, the impugned proceedings are in violation of principles of natural justice.

3.Thus, for the above reasons, the writ petition is disposed of by directing the petitioner to treat the impugned proceedings as show cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent is directed to afford an opportunity of personal hearing and redo the assessment in accordance with law. In the light of the above direction, the respondent shall not initiate any proceedings for recovery of the tax as quantified in the impugned assessment order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT)
Velandipalayam Assessment Circle,
Coimabtore.

+ 1 cc to Mr.N.Inbarajan Advocate,SR.91225
+ 1 cc to The Special Govt.Pleader, SR.91772

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nr 18/01/2018