IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

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THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.16071 of 2017
and
W.M.P.No.17362 of 2017

M/s.Meenatchi Motors [Petitioner]
Rep by its Proprietrix Tmt.K.Meenakshi
No.52 (Near) Subashini Mahal
Cuddalore Main Road, Panruti.

Vs

The Commercial Tax Officer
O/o. Assistant Commissioner (CT)
Panruti (Town), Assessment circle,
Panruti-607 106. [Respondent]

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent in TIN : 33074481356 /2015-16 dt 28.10.2016 and the consequential recovery proceedings in N.K. A3/424/2017 dt 25.5.2017 quash the same and further direct the respondent to restore the availed Input Tax Credit in view of the Law laid down by this Honourable Court in W.P.Nos. 27107 to 27111/2016 dated 14.8.2016.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.S.Kanmani Annamalai, SGP

O R D E R

Mr.S.Kanmani Annamalai, learned Special Government Pleader, takes notice for the respondent. By consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2. The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records of the respondent in TIN No.33074481356 /2015-16 dated

28.10.2016 and the consequential recovery proceedings dated 25.05.2017 and to quash the same and further direct the respondent to restore the availed Input Tax Credit, in view of the law laid down by this Court in W.P.Nos. 27107 to 27111/2016 dated 14.8.2016.

3. It is the case of the petitioner that the respondent has not given an opportunity of hearing, as contemplated under Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the TNVAT Act, 2006).

4. Mr.S.Kanmani Annamalai, learned Special Government Pleader, appearing for the respondent submitted that the matter may be remanded back to the respondent for fresh consideration, after giving an opportunity of hearing to the petitioner.

6. Having regard to the submissions made by the learned counsel on either side, since the respondent has not given an opportunity of hearing to the petitioner to put forth his case, which is a mandatory requirement under the provisions of Section 22(4) of the TANVAT Act, 2006, the impugned orders dated 28.10.2016 and 25.05.2017 are set aside and the matter is remitted back to the respondent for fresh consideration, after giving an opportunity of hearing to the petitioner. The respondent shall hear the petitioner and pass orders on merits and in accordance with law.

With the above observations, the Writ Petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
O/o. Assistant Commissioner (CT)
Panruti (Town) Assessment circle,
Panruti-607 106.

+1cc to Special Government Pleader(Taxes), SR.No.44949

W.P.No.16071 of 2017

GN(04/07/2017)