IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.16081 of 2017
and W.M.P.Nos.17373 and 17374 of 2017

M/s.Sri Amman Hardwares and Paints
Rep. by its Partner
No.53A/3, Gandhi Salai
Rasipuram Post and Taluk
Namakkal District. ..Petitioner

Vs

Deputy Commercial Tax Officer
Rasipuram.
...Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the respondent pertaining to order dated 28.02.2017 passed by the respondent in Va.V.No. 33583163961/ 2013-14 related in TN No. 33583163961 and quash the same as illegal and consequently direct the respondent to consider the matter as fresh.

For Petitioner : Mr.S.Sivanandam
For Respondent : 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 pertaining to the order dated 28.02.2017 passed by the respondent relating to TIN No.33583163961 and to quash the same and consequently direct the respondent to consider the matter afresh.

3. It is the case of the petitioner that the respondent has passed the order without giving 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 since the petitioner was not given an opportunity of hearing, as contemplated under the TNVAT Act, 2006, the impugned order may be set aside and the respondent may be directed to decide the matter afresh, 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 petitioner was not given an opportunity of personal hearing as contemplated under Section 22(4) of the TNVAT Act, 2006, which is a mandatory provision, the impugned order dated 28.02.2017 is set aside and the matter is remitted back to the respondent for fresh consideration. The respondent shall decide the matter afresh, after giving an opportunity of personal hearing to the petitioner. It is needless to say that the respondent may consider the revised return submitted by the petitioner in accordance with law.

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

-s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

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To

The Deputy Commercial Tax Officers
Rasipuram.

+1 CC to Mr.S.Sivanandam, Advocate sr 44473
+1 CC to Govt. Pleader(Taxes) sr 44648

sp(04/07/2017)