IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.44397 of 2006 & M.P.No.1 of 2006

Tvl.S.L.Garments, Rep. by its
Proprietor, Mr.P.Swaminathan
No.192/36, Sivanandha Street,
Anuparpalayampudur, Tirupur. ... Petitioner

-Vs-

The Deputy Commercial Tax Officer,
Tirupur (Rural) Assessment Circle, Tirupur. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records on the files of the respondent in TNGST No.2381200/2003-04 dated 15.12.2005 and quash the same as being invalid, illegal and contrary to the principle of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2.The petitioner has filed this writ petition challenging the order of assessment dated 15.12.2005 under the provisions of the Tamil Nadu General Sales Tax Act, 1959 (in short "TNGST Act") for the assessment year 2003-04. The challenge to the impugned order is not on the merits of the assessment, but on the ground that the impugned assessment order is in violation of principles of natural justice. The objections filed by the petitioner to the pre-assessment notice though was acknowledged by the respondent himself, while completing the assessment by way of the impugned order, it has been stated that no objections have been filed. To examine the correctness of the stand taken by the petitioner, this Court verified the original impugned assessment order, which contains seal and signature of the

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respondent and compared the same with the endorsement made in the letter delivery book, copy of which has been placed in page No.5 of the typed set of papers. On a cursory perusal of both signatures, it is prima facie clear that it is the respondent, who has acknowledged the objections by putting his seal, the date as 06.12.2005 underneath his designation. Therefore, it appears to be a case where due to oversight the respondent has not taken into consideration the objections, which were filed by the petitioner. This is sufficient to hold that there has been violation of principles of natural justice.

3.Accordingly, this writ petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall consider the petitioner's objection dated 06.12.2005 as well as the additional objections, if any may be filed by the petitioner and re-do the assessment in accordance with law after affording an opportunity of personal hearing. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

abr

To

The Deputy Commercial Tax Officer,
Tirupur (Rural) Assessment Circle, Tirupur.

+1 CC to Mr.R. Senniappan, Advocate sr 72696.
+1 Cc to Govt. Pleader sr 72065.

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NM(CO)
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