BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.22333 of 2016
and
W.M.P.(MD) No.16008 of 2016

Apsara Doors and Frames,
Represented by its Proprietor
P.Karunakaran ... Petitioner

Vs.

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special-
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (CT),
   Woraiyur Assessment Circle,
   Commercial Tax Complex,
   District Courts Campus,
   Contonment,
   Trichy - 628 008. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue of a Writ of Certiorari, call for records pertaining to the impugned proceedings of the 2nd Respondent in TIN 33193443293/2009-10 dated 17.10.2016 and quash the same.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.R.Raja Karthikeyan,
Special Government Advocate.

ORDER

This Writ Petition has been filed by the petitioner for issuance of a Writ of Certiorari, call for records pertaining to the impugned proceedings of the second respondent in TIN 33193443293/2009-10 dated 17.10.2016 and quash the same.

2. The short issue that arises for consideration in this Writ Petition is whether the impugned order of assessment challenged

in this Writ Petition is in violation of principles of natural justice, so that this Court can justify the petitioner approaching this Court without exhausting alternative remedy of appeal.

3. The learned Counsel for the petitioner pointed out that the second respondent issued a notice dated 14.07.2016, proposed to revise the assessment of tax without any particulars, though the basis of revision was the inspection of petitioner's business premises on various dates. To the notice, the petitioner sent a reply dated 06.09.2016, through registered post, denying the allegations in the notice issued by the second respondent. The petitioner also requested to provide copies of the inspection report, proposal sent by the Enforcement Wing Officials and the MIS report relied on by the second respondent in the notice before the assessment. The petitioner also prayed for sufficient time after supplying the documents, which were sought from the second respondent. However, it is the further case of the petitioner that the second respondent has arbitrarily passed the impugned order by confirming the proposal as per the notice issued.

4. The notice issued by the second respondent dated 14.07.2016 and the reply given by the petitioner would support the stand taken by the learned counsel for the petitioner. In the reply notice, the petitioner apart from seeking further time, requested the second respondent to provide the petitioner copies of the alleged MIS reports, copies of the inspection statement and the proposal sent by the Enforcement Wing Officials, so that the petitioner will be in a position to submit their valid explanation and objection to the proposal, as per the notice before the revision. Despite notice, it is admitted that the documents were not furnished to the petitioner. Hence it is a case of clear violation of principles of natural justice and hence, this Court has no other option but to allow this Writ Petition.

5. As a result, the Writ Petition is allowed and the impugned order passed by the second respondent in TIN 33193443293/2009-10, dated 17.10.2016 is quashed. However, the second respondent is given liberty to pass fresh order of assessment, after giving opportunity of personal hearing to the petitioner and providing the petitioner necessary particulars, i.e., MIS report, inspection report and report of Enforcement Wing officials, and any other material that is relied upon by the assessing authority. The respondent is directed to give at least four weeks time after furnishing the particulars to respond to the notice before the proposed revision. No costs.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Commercial Taxes,
   Office of the Principal and Special-
   Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

2. The Assistant Commissioner (CT),
   Woraiyur Assessment Circle,
   Commercial Tax Complex,
   District Courts Campus,
   Contonment,
   Trichy - 628 008.

\+ 1 CC TO Mr.B.ROOBAN, ADVOCATE IN SR No. 60832
\+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 60791

ARUL/CMR
TE/MR-KKR/SAR-IV : 05/07/2017 : 3P/5C

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