IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.6434 of 2018
and W.M.P.Nos.7949 to 7951 of 2018

M/s.Sri Kumar Electricals & Spares,
rep by the Legal Heir
No.68-a, Kosa Annamalai Street,
Gudiyatham - 632 602. .. Petitioner

Vs.

The Commercial Tax Officer,
Gudiyattam (East) Circle,
Gudiyattam, Vellore District. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified mandamus calling for the records of the respondent and quash the proceedings in TIN No.33874243557/2011-12 dated 16.04.2014 as illegal and against the principles of natural justice and direct the respondent to lift the attachment endorsed in the property under the Revenue Recovery Act.

For Petitioner : Mr.C.Baktha Siromoni
For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus calling for the records of the respondent and quash the proceedings dated 16.04.2014 and to direct the respondent to lift the attachment endorsed in the property under the Revenue Recovery Act.

3.The learned counsel appearing for the petitioner submitted that the respondent had passed the impugned order on 16.04.2014 without giving an opportunity of personal hearing, which is a mandatory provision under Section 22(4) of the TNVAT Act. The learned counsel further submitted that the impugned order is liable to be set aside since it is in violation of principles of natural justice.

4.Mr.M.Hariharan, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since the petitioner was not given an opportunity of personal hearing, the impugned order may be set aside and the matter may be remitted back to the respondent for fresh consideration.

5.Having regard to the submissions made by the learned counsel on either side, since the petitioner was not given an opportunity of personal hearing, which is a mandatory provision under Section 22(4) of the TNVAT Act, which is violative of principles of natural justice, the same is liable to be set aside. Accordingly, the impugned order dated 16.04.2014 is set aside and the matter is remitted back to the respondent for fresh consideration. The respondent is directed to decide the matter afresh, taking into consideration the issues raised by the petitioner, on merits and in accordance with law.

6.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd
ASSISTANT REGISTRAR (CS VI)

TRUE COPY

SUB ASSISTANT REGISTRAR

To

The Commercial Tax Officer,
Gudiyattam (East) Circle,
Gudiyattam, Vellore District.

1CC TO MR. C. BAKTHASIROMANI,, ADVOCATE SR:22026
1CC TO THE SPL GOVT PLEADER SR:22071

W.P.No.6434 of 2018
and W.M.P.Nos.7949 to 7951 of 2018

DM
28 MARCH 2018