IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10767 of 2018
&
W.M.P.No.12712 of 2018

M/s.Sri Kumar Electricals & Spares
Rep by the Legal heir
No.68-A, Kosa Annamalai Street
Gudiyatham- 632 602 ... Petitioner

vs

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

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the respondent and quash the proceedings in TIN No.33874243557/2012-13 dated 26.08.2014 as illegal and against principles of natural justice and direct the respondent to redo assessment after providing an opportunity of personal hearing.

For Petitioner : Mr.C.Bakthasiromoni

For Respondents : Mr.M.Hariharan
Government Advocate

O R D E R

Heard Mr.C.Bakthasiromoni,learned counsel for the petitioner and Mr.M.Hariharan, learned Government Advocate appearing for the respondent.

2. With the consent on either side, the writ petition itself is taken up for disposal.

3.The learned counsel appearing for the petitioner has submitted that the petitioner had approached this Court earlier and challenged the Assessment Order for the Assessment year 2011-12 by filing W.P.No.6434 of 2018 and the said writ petition was allowed on the ground that opportunity of personal hearing was not granted, which is mandatory as per the proviso to Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006. The operative portion of the order reads as follows:

> "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."

4. While completing the impugned assessment for the year 2012-13 also, the respondent did not afford an opportunity of personal hearing. Therefore, similar orders as that of the previous year are required to be passed in the instant case also.

Accordingly, the writ petition is allowed and the impugned order dated 26.08.2014 is set aside and the matter is remanded to the respondent for fresh consideration. The respondent is directed to afford an opportunity of personal hearing, taking into consideration the contentions advanced by the petitioner and redo the assessment in accordance with law along with Assessment year 2011-12. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa
To
Commercial Tax Officer
Gudiyattam (East) Circle
Gudiyattam, Vellore District

+1cc to Mr.C.Bakthasiromoni, Advocate, S.R.No.31143

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cs/18/05/18