IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.09.2018

C O R A M

THE HON'BLE Mr.JUSTICE K.RAVICHANDRABAABU
W.P.No.22261 of 2018
and
WMP No.26084 of 2018

M/s.Sri Vaishnavi Auto,
Rep. by its Manager,
No.485, Thindivanam Road,
Vandavasi,
Thiruvannamalai District. ...Petitioner

vs

State Tax Officer,
Vandavasi Assessment Circle,
Vandavasi,
Thiruvannamalai District. ...Respondent

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records of the respondent and quash the assessment proceedings in TIN 33584603344/2015-16 dated 25.07.2018 and direct the respondent to pass fresh orders after considering reply letter filed by the petitioner on 07.03.2017 and to pass orders after providing an opportunity of personal hearing to the petitioner.

For petitioner : Mr.C.Baktha Siromoni
For Respondents : Mr.M.Hariharan
Additional Government Pleader

O R D E R

The petitioner is aggrieved against the order of assessment passed in respect of the Assessment Year 2015-16. The Assessing Authority, apart from imposing tax, has also imposed penalty on the petitioner under Section 22(5) of the Tamilnadu VAT Act, 2006.

2.The main grievance of the petitioner before this Court is that the Assessing Officer has not followed the principles of natural justice before passing the assessment order.

3.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent.

4.It is seen that an assessment order dated 19.09.2016 passed in respect of the very same assessment year 2015-16 was put to challenge before this Court in W.P.No.36981 of 2016. It is further seen that the said writ petition was allowed on 21.10.2016 by setting aside the order of assessment dated 19.09.2016 and remitting the matter back to the Assessing Officer for fresh consideration with a specific direction to take note of the letters given by one M/s.Ganesh Bikes dated 29.09.2016 and also by affording an opportunity of personal hearing to the petitioner to give their objections and thereafter, to redo the assessment in accordance with law. It is seen that in pursuant to the order passed by this Court on 21.10.2016, the petitioner made two objections dated 07.03.2017 and 30.05.2017. Copy of those objections are placed before this Court in the typedset of papers. Perusal of the same would indicate that the same were received by the respondent office on the very same day of making those objections. Further perusal of the impugned order dated 25.07.2018 would show that those objections filed by the petitioner dated 07.05.2017 and 30.05.2017 were not taken into consideration at all, nor there is any reference made to the same in the impugned order. Therefore, it is evident that the Assessing Officer has not considered those objections at all before passing the order of assessment, when admittedly those objections are already received by him.

5.Thus, this Court is of the view that the present impugned assessment made without considering those objections cannot be sustained on the sole reason of non application of mind. Insofar as the other contention raised by the petitioner regarding personal hearing is concerned, though the learned Additional Government Pleader contended that such hearing was given to the petitioner, since this Court has already taken the view to set aside the impugned order and remit the matter back to the Assessing Officer for redoing the assessment on the reason that those two objections were not considered by him, any personal hearing given to the petitioner earlier, without considering those objections, will not have any effect. In other words, granting of such personal hearing to the petitioner without reference to the objections filed by them is meaningless. Therefore, the Assessing Officer is bound to give one more personal hearing to the petitioner, after considering those objections as stated supra.

6.Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer for redoing the assessment on merits and in accordance with law, after considering the objections raised by the petitioner dated 07.03.2017 and 30.05.2017 and also after providing an opportunity of personal hearing to the petitioner. The whole exercise shall be completed by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Co)

//True Copy//

Sub Assistant Registrar

vri
To
State Tax Officer,
Vandavasi Assessment Circle,
Vandavasi,
Thiruvannamalai District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 61839

W.P.No.22261 of 2018

ASK(05/10/2018)