IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.18270 of 2017
and
W.M.P.No.19852 of 2017

M/s.Eureka Automobiles (P) Ltd.,
rep.by its Director Mr.N.S.Srinivasan ...Petitioner

Vs.

1.The Assistant Commissioner (CT),[FAC]
Kilpauk Assessment Circle,
No.F-50, Anna Nagar I Avenue,
Anna Nagar East,
Chennai - 600 102.

2.The State of Tamilnadu,
rep.by its Secretary,
Commercial Taxes & Registration Department,
Fort St. George, Chennai - 600 009. ...Respondents

Prayer:

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records of the first respondent in TIN/33326401290/2016-17, dated 27.06.2017 and quash the same as illegal, unreasonable and arbitrary.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mrs.G.Dhanamadhri
Government Advocate

O R D E R

Heard Mr.V.Sundareswaran, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondents.

2. Considering the limited scope of the issue involved in this Writ Petition, the same is taken up for disposal at this

stage.

3. The petitioner, who is a registered dealer on the file of the first respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and Tamil Nadu Tax on Entry of Motor Vehicles Act, 1990 (hereinafter, referred to as 'Act, 1990') is aggrieved by the impugned assessment order passed under the provisions of the Act, 1990, for the assessment year 2016-17.

4. The learned counsel appearing for the petitioner submitted that, the petitioner may be given one more opportunity to go before the Assessing Officer and explain the documents, which they have furnished along with objections/reply, dated 16.06.2017, since Section 15 (2) of the Act, 1990 mandates that, an opportunity of personal hearing should be provided.

5. On a perusal of the impugned order, I find that opportunity of personal hearing has not been provided. Since this is a mandatory requirement, as per Section 15 (2) of the Act, 1990, failure to afford opportunity of personal hearing would render the impugned order as being in violation of the principles of natural justice. However, since I find that the objections given by the petitioner, dated 16.06.2017 is bereft of particulars, except, for the annexures, the petitioner should furnish full details to the Assessing Officer and appear before him and explain their case.

6. Thus, for the above reasons, this Writ Petition is disposed of, by directing the petitioner to treat the impugned order as a show cause notice, and submit their objections along with annexures within a period of two weeks from the date of receipt of a copy of this order, after which, the first respondent shall afford an opportunity of personal hearing to the petitioner and direct the petitioner to clarify all aspects, take into consideration the legal position and proceed with in accordance with law by redoing the assessment. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

(sd)

To

1. The Assistant Commissioner (CT),[FAC]
   Kilpauk Assessment Circle,
   No.F-50, Anna Nagar I Avenue,
   Anna Nagar East,
   Chennai - 600 102.

2. The Secretary,
   State of Tamilnadu,
   Commercial Taxes & Registration Department,
   Fort St. George, Chennai - 600 009.

+1cc to Mr.V.Sundareswaran,Advocate,S.R.No.3871
+1cc to the Special Government Pleader, S.R.No.4645

(CO)
CA(/04/2017)
nm(CO)
klt(10.02.2018)

W.P.No.18270 of 2017