BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.02.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).Nos.1435 & 1436 of 2018
and
W.M.P.(MD).Nos.1494 & 1495 of 2018

Tvl.Safiya Leather Export,
Represented by its Partner,
K.Barakathullah, aged about 58 years,
S/o C.K.M.Kamal Basha,
No.11/5-A, Batlagundu Road,
Begampur, Dindigul-624 002. ...Petitioner in both Petitions

Vs.

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Assistant Commissioner (CT)-III,
Dindigul-III Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector Office Road,
Dindigul-624 001. ...Respondents in both Petitions

COMMON PRAYER: Writ petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings of the second respondent in TIN: 33285240314/2007-08 and 33285240314/2009-10, dated 30.10.2017 and quash the same and to consequently direct the second respondent to re-do the assessment after giving adequate opportunity to the petitioner.

For Petitioner	:	Mr.B.Rooban in both Petitions
For Respondents	:	Mrs.S.Srimathy Special Government Pleader in both petitions

COMMON ORDER

Mrs.S.Srimathy, learned Special Government Pleader, appearing for the respondents.

2.By consent of both parties, the main Writ Petitions themselves are taken up for final disposal.

3.The petitioner is an assessee with the second respondent. In respect of the assessments which were deemed to have been completed, action was taken under Section 27 of the Tamil Nadu Value Added Tax Act, 2006. Pre Revision notices were issued. The petitioner received the notices. The petitioner failed to respond and therefore the second respondent proceeded to pass final orders. The same are assailed in these Writ Petitions.

4.The primary contention urged by the learned counsel appearing for the writ petitioner is that the web reports referred by the second respondent are bereft of details. The reason for not responding to the pre-revision notice is said to be illness of the accountant concerned.

5.Considering the facts and circumstances of this case, this Court is of the view that the impugned orders can be directed to be treated as fresh notices.

6.The learned counsel appearing for the petitioner on instructions would submit that he shall pay 15% of the disputed tax amount within a period of two weeks from the date of receipt of a copy of this order. Upon such remittance, the second respondent is directed to give one more opportunity to the petitioner. The petitioner is entitled to ask for an opportunity from the second respondent. The second respondent shall afford an opportunity of personal hearing to the petitioner, after complying with the statutory provisions and also principles of natural justice, the second respondent shall pass orders afresh on merits and in accordance with law.

7.With these observations and directions, the Writ Petition stands allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner of Commercial Taxes,
O/o. The Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Assistant Commissioner (CT)-III,
Dindigul-III Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector Office Road,
Dindigul-624 001.

+1cc to M/S.B.Rooban, Advocate SR.No. 48159
+1cc to Special Government Pleader, SR.No. 48610

ORDER MADE IN
W.P.(MD).Nos.1435 & 1436 of 2018
13.02.2018

tsg
JM/RP/SAR 1/18.07.2018/3P/5C