BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No. 1952 of 2018
and
W.M.P.(MD)No.2199 of 2018

M/S.Baskaran Electricals,
Works Contractor,
No.53, Sourashtra Colony,
Nagal Nagar, Dindigul. ... Petitioner

Vs.

The Assistant Commissioner (CT)-V,
Dindigul. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in TIN.33815381009/2015-16 dated 21.09.2017 and to quash the same as illegal, arbitrary, in violation of the principles of natural justice and violation of Rule 8(5)(d) of the Tamilnadu Value Added Tax Rules, 2006 and direct the respondent to pass assessment order afresh after affording an opportunity of being heard to the petitioner by considering the reply and records filed by the petitioner on 05.09.2017 and the circular issued by the Commissioner of Commercial Taxes, Chennai in Circular No.54/2014 Ref.No.D3/34875/2014 dated 14.11.2014 within such time as may be directed by this Court.

For petitioner : Mr. S.Karunakar
For Respondent : Mrs.S.Srimathy
Special Government Pleader

O R D E R

Heard counsel on either side.

2. The petitioner is an assessee with the respondent. In respect of the assessment year 2015-2016, pre-revision notice was issued. The petitioner herein received the notice, and sent a reply to the notice on 24.07.2017. Even after, the respondent has passed a final order dated 21.09.2017 without giving an opportunity of personal hearing to the petitioner.

3. The principal ground taken by the learned counsel for the petitioner is that, he took out an application under section 84 of TNVAT Act, 2006. A copy of the said application dated 24.07.2017 is enclosed in the typed set of papers. It was also duly acknowledged by the respondent. Till date no orders has been passed thereon.

4. Finding some force in the contention raised by the learned counsel for the petitioner, this Court directs the respondent that impugned order shall be treated as a notice. But this petitioner have to be put on terms. The petitioner shall remit 15% of the deposited tax amount within two weeks from today. The matter is remitted to the file of the respondent. The respondent shall pass orders afresh in accordance with law after affording an opportunity to the petitioner and making available the documents relied on by the respondent.

5. This writ petition is allowed as indicated above. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To:

The Assistant Commissioner (CT)-V,
Dindigul.

ORDER MADE IN
W.P. (MD) No. 1952 of 2018
12.02.2018

pnn
JM/SV/SAR 4/18.07.2018/2P/2C