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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2456 of 2018
and
W.M.P.(MD) No.2655 of 2018

M/s.Don Publication Private Limited,
Rep.by its Director S.A.Suresh Kumar,
100/4, Uthamaapandiankulam,
Tirunelveli. ... Petitioner

Vs.

The Commercial Tax Officer,
Palayamkottai Assessment Circle,
Palayamkottai. ...Respondent

Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in TIN 33395566319/2015-16 dated 16.08.2017 issued by the respondent and quash the same as arbitrary, illegal, against the principles of natural justice and against Entry 11, Part B of the Fourth Schedule of the Tamilnadu Value Added Tax Act 2006 and direct the respondent to pass assessment order afresh after affording reasonable opportunity to the petitioner including the opportunity of being heard to the petitioner within such time.

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

ORDER

The petitioner is an assessee with the respondent. In respect of the assessment year 2015-2016, action was initiated under Section 27 of the TNVAT Act, 2006. The Pre-Revision Notice dated 15.05.2017 was received by the petitioner herein. The petitioner company by a letter dated 31.07.2017 sought 15 days time to lodge their objections. The same was received by the respondent. Thereafter, by another letter dated 14.08.2017, the petitioner sought further time. The same was received by the respondent on 16.08.2017. But, on 31.08.2018, the impugned order dated 16.08.2017 was despatched. The said order is under challenge.

2.The learned counsel appearing for the petitioner pointed out that the respondent had admittedly received the letter dated 31.07.2017. The same is referred to in the impugned order also.

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Therefore, the respondent ought to have responded to the petitioner one way or the other. Without doing so, the impugned order has been passed. It is also to be borne in mind that the second letter dated 14.08.2017 was also received by the respondent on 16.08.2017.

3.When the second letter submitted by the petitioner was received on 16.08.2017, the respondent ought not to have issued impugned order on the same day without giving on opportunity to the petitioner and the respondent ought to have responded to the said representations submitted by the petitioner.

4.Therefore, this Court come to the conclusion that there has been a violation of principles of natural justice. On this sole ground, this Court quashes the order impugned in the writ petition. The order impugned in this writ petition is therefore quashed. The respondent shall fix the hearing date for the personal hearing of the petitioner and the petitioner will be given an opportunity on the said hearing date. It is for the petitioner to place all the materials in his favour for the consideration of the respondent. The respondent is directed to pass orders on merits and in accordance with law.

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

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Palayamkottai Assessment Circle,
Palayamkottai.

+1cc to M/S.S.Karunakar, Advocate SR.No. 48735
+1cc to Special Government Pleader, SR.No. 49338

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