BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.03.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.3247 of 2018
and
W.M.P.(MD).No.3408 of 2018

Tvl.Saraswathi Timbers,
Represented by its Proprietor,
P.Subburaj,
S/o.Palani Chettiar,
No.72, Santhai Road, Mettupatti,
Dindigul-624 002. ...Petitioner

Vs.

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

2.The Assistant Commissioner (CT)-V,
Dindigul-V Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector office Road,
Madurai.625 020. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling the records pertaining to the impugned order of the second respondent in TIN No.33545380821 / 2013-14 dated 14.11.2017 and quash the same.

For Petitioner : Ms.P.Jessi Jeeva Priya
For Respondents : Mrs.S.Srimathy
Special Government Pleader

ORDER

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

2.By consent of both parties, the main Writ Petition itself is taken up for final disposal.

3.The writ petitioner is an assessee with the respondent in respect of the assessment year 2013-2014. The writ petitioner was served with a pre-revision notice. The writ petitioner without offering his explanation, sought adjournment on health grounds. Finally, the impugned order came to be passed.

4.The learned counsel appearing for the writ petitioner submitted that the impugned order suffers from a glaring legal infirmity. According to the learned counsel for the writ petitioner the standard set out in J.K.M. Graphics Solutions Private Limited case has not been met while issuing the pre-revision notice.

5.This Court considering the facts and circumstances, is of the view that the writ petitioner can be afforded one more opportunity to explain with regard to the transactions set out in the pre-revision notice. The order impugned in the Writ Petition can be treated as a notice. The writ petitioner shall submit the explanation and thereafter the second respondent after affording due opportunity of personal hearing and applying the principles of natural justice pass final orders in accordance with law. But then petitioner has to be necessarily be put on terms.

6.The learned counsel appearing for the petitioner on instructions undertook to pay 15% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order. If the petitioner does not pay the said amount within the time permitted, the benefit of this order will not enure to the writ petitioner and the Writ Petition shall stand automatically dismissed.

7.The Writ Petition is allowed on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/
Assistant Registrar (Crl side)

/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.

2.The Assistant Commissioner (CT)-V,
Dindigul-V Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector office Road,
Madurai-625 020.
+1cc to Mr.N.SUBRAMANIAN Advocate, SR.No. 54379
+1cc to M/s.Special Government Pleader,SR.No. 54910

W.P.(MD).No.3247 of 2018
12.03.2018

TSG
KK/SKN RSK/13.03.2018/SAR-3/2P-5C