BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.01.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.333 of 2018

M/s.V.N.P.Ceramics,
Rep. by its Authorized Signatory,
No.5/1, Keelakalkandarkattai Road,
Ariyamangalam, Trichy-10. .. Petitioner

Vs.

1.The Commercial Tax Officer,
Tiruverumbur Assessment Circle,
Trichy.

2.The Commercial Tax Officer,
Enforcement Wing-V,
Commercial Taxes Department,
Trichy. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent in proceedings in TIN No.33193564931/2015-16, dated 28.10.2017 and to quash the order passed therein and to direct the first respondent to pass fresh orders after giving an opportunity of personal hearing as required under Section 22(4) of TNVAT Act and work out the stock difference based on the stock details taken at the time of inspection, after providing a copy of the list goods noted as stock at the business place, after providing a copy of the list of goods noted as stock at the business place at the time of inspection.

For petitioner : Mr.C.Bakthasironmoni
For respondents : Mrs.S.Srimathy
Special Government Pleader

O R D E R
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Mrs.S.Srimathy, Special Government Pleader, takes notice for the respondents.

2.By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3.Heard Mr.C.Bakthasironmoni, learned Counsel appearing for the petitioner and Mrs.S.Srimathy, Special Government Pleader appearing for the respondents.

4. The Writ Petitioner is a registered dealer. Following a surprise inspection conducted by the Enforcement Wing officials, the first respondent issued Revision Notice dated 13.01.2016, alleging that the writ petitioner had suppressed the actual turnover for the year 2015-2016. In the said revision notice, it has been mentioned that the stock that should be as per the books of account is Rs.2,62,90,110/-. The writ petitioner submitted his reply dated 01.02.2016 in response to the said revision notice. The petitioner had specifically contended that the first respondent has not clarified the basis on which the stock value was arrived at. Though not set out in so many words, the writ petitioner had actually prayed for a personal hearing. In his reply, the writ petitioner had pointed out that if he had been taken into confidence, he would have revealed the true state of affairs, but such an opportunity was not afforded to him. But without affording such an opportunity of personal hearing, the first respondent proceeded to pass the impugned order dated 28.10.2017, confirming the proposal set out in the Revision Notice dated 13.01.2016.

5. The learned counsel appearing for the writ petitioner placing reliance upon the earlier decisions of the Division Bench of this Court reported in *(2010) 33 VST 333 [M/s.SRC Projects Private Ltd., rep. by its Chief Executive Officer, Salem vs. The Commissioner of Commercial Taxes, Ezhilagam, Cheqauk, Chennai and another]*, contended that the impugned order is liable to be quashed on the ground of violation of principles of natural justice.

6. I find force in the said submission. The impugned order is, therefore, quashed and the matter is remitted to the file of the first respondent to pass fresh orders in accordance with law, after affording an opportunity of personal hearing to the writ petitioner.

7. This Writ petition is allowed accordingly. No costs.

Sd/-
Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To
1.The Commercial Tax Officer,
Tiruverumbur Assessment Circle, Trichy.
2.The Commercial Tax Officer,
Enforcement Wing-V, Commercial Taxes Department, Trichy.
+One cc to Mr.C.Bakthasironmoni, Advocate, SR.No.41094
+One cc to The Special Government Pleader, SR.No.41059
kmi

RL/5C/2P/KK/SARI/7/2/2018 W.P.(MD)No.333 of 2018
09.01.2018