BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.3526 of 2018
and
W.M.P.(MD)Nos.3662 and 3663 of 2018

M/s.Durai Timber Depot,
Represented by its Proprietor,
D.Ramesh ... Petitioner

Vs.

The Commercial Tax Officer,
Aranthangi Assessment Circle,
Aranthangi, Pudukottai District. ... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN No.33074141759/2016-2017 dated 17.01.2018 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan
For Respondent : Mr.K.Saravanan, Government Advocate.

ORDER

The petitioner is a registered assessee with the respondent. The subject matter pertains to the assessment year 2016-17. The petitioner is a dealer in timber. In respect of concluded assessment on deemed basis, action was initiated following the report of the enforcement wing. Pre-revision notice was issued. The petitioner submitted a detailed objections.

2.It is true that personal hearing was afforded to the petitioner. But then, while passing the final orders, the objections of the petitioner were considered in the following manner :

> "*The dealer's objections were examined carefully, the dealer have accepted the stock discrepancy noticed at the time of shop inspection before the Inspecting Officers on 08.10.2016 and they have not adduced any acceptable evidence for the denial of the purchases referred to in the Annexure-II of the dealers at the other end. This assessment proposed are based on the*

Government record which cannot be blindly denied. I, therefore, overrule the objections filed and confirm the proposed levy of tax and penalty".

3.This Court is of the view that the petitioner's objections have not been dealt in a proper manner. This Court has held that proper enquiry must be made by the Assessing Officer with the other end officers. In this case, that has not been done. Therefore, the order impugned in the writ petition is quashed. The matter is remitted to the file of the respondent to pass orders afresh and in accordance with law. However, the petitioner has to be put on terms.

4.The learned counsel for the petitioner on instructions from the petitioner submitted that without prejudice to his contentions, he would remit 10% of the disputed tax amount with the respondent within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the respondent will follow the approach indicated by this Court in the decision reported in ***1999 VST 343 (J.K.M.Graphics Solutions Private Limited vs. The Commercial Tax Officer, Vepery Assessment Circle).***

5.This writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer,
Aranthangi Assessment Circle,
Aranthangi, Pudukottai District.

+ 1 CC TO Mr.K.SOUNDARARAJAN, ADVOCATE IN SR No. 52221
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 52932

SKM
TE/KKR/SAR-3 : 04/05/2018 : 2P/4C

ORDER MADE IN
W.P.(MD).No.3526 of 2018
01.03.2018