BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.5235 of 2018
and W.M.P.(MD)No.5206 of 2018

Shoba Electricals,
Represented by its Proprietor,
S.Nahoor Meeran, aged about 58 years,
S/o Sahul Hameed,
No.51-A, Kamarajar
Complex, Dindigul Road,
Palani, Dindigul District-624 601. ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam,
Chepauk, Chennai-600 005.

2.The Assistant Commissioner (ST)-I (FAC),
Palani I Assessment Circle,
No.12, 1st Cross Street,
R.S.Ramalingam Street,
Shanmugapuram, Palani,
Dindigul District-624 601. ...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN 33775280639/2014-15 dated 29.12.2017 and quash the same.

For Petitioner : Mr.B.Rooban

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

ORDER

The petitioner is an assessee registered with the second respondent. The assessment for the year 2014-15 got concluded on deemed assessment basis. To re-open the same, action was taken by issuing Pre-Revision Notice under Section 22(2) of the TNVAT Act, 2006.

2.The writ petitioner did not lodge his objection. Instead, he sought adjournment. That the assessing authority received a request for adjournment from the dealer is not in dispute. Instead of dealing with the said objection. Then and there, the authority rejected the request for adjournment while passing the final order.

3.It has been held in more than one case that such a course of action is not permissible in law and that it would be a clear violation of the principles of natural justice. In this view of the matter, the order impugned in this writ petition is quashed. The matter is remitted to the file of the 2nd respondent to pass orders afresh in accordance with law after affording an opportunity of personal hearing to the petitioner. The writ petitioner shall also submit his written explanation in response to the pre-revision notice.

4.The learned counsel for the writ petitioner on instructions from the petitioner submitted that he would remit 10% of the tax amount within a period of two weeks from today.

5.With this liberty, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/
Assistant Registrar (AD-I)

/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-600 005.

2.The Assistant Commissioner (ST)-I (FAC),
Palani I Assessment Circle, No.12, 1st Cross Street,
R.S.Ramalingam Street, Shanmugapuram,
Palani, Dindigul District-624 601.

+1cc to Mr.B.Rooban, Advocate, SR.No.54856
+1cc to M/s.Special Government Pleader,SR.No. 55234

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and
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GNS
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