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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.9810 of 2018
and
W.M.P(MD)No.9005 of 2018

A.Shaheela,
Proprietor,
Amalraj Traders,
1,161A, Main Road, Pammam,
Marthandam,
Kanyakumari District. ... Petitioner

Vs.

The State Tax Officer,
Kuzhithurai at Kattathurai,
Kanyakumari District. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN:33746183968/2012-13, dated 28.03.2018 and quash the same and consequently, direct the respondent to consider the reply submitted by the petitioner dated 19.02.2018 and grant the details, documents and opportunities required by the petitioner and a personal hearing and then pass orders according to law.

For Petitioner	:	Mr.M.Azeem
For Respondent	:	Mr.S.Dhayalan Government Advocate

ORDER

Challenging the order passed by the respondent in proceedings in TIN:33746183968/2012-13, dated 28.03.2018, the petitioner is before this Court.

2. According to the petitioner, he is a registered dealer and he submitted the returns for the assessment year 2012-2013. A surprise inspection was conducted on 14.08.2014. On the basis of the report submitted by the inspection team, a revision notice was issued on 17.01.2018 under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 [in short 'TNVAT Act']. The petitioner submitted his objections on 19.02.2018 and sought for personal hearing before passing final orders, but the respondent without affording an opportunity of personal hearing, has overruled the objections on the pretext that the petitioner has deposed in the sworn statement given at the time of inspection accepting the discrepancies and the

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objection given is only an afterthought and deliberate attempt to postpone the payment of tax and confirmed the proposal.

3. I have heard the rival contentions.

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4. The sworn statement given at the time of inspection is insofar as the procedure of inspection and the seizure of documents or accounts where discrepancies were found by the inspection team. It does not have a binding effect on the dealer when a revision of assessment is made by the assessing officer. The assessing officer while passing final orders on the basis of the revision issued under Section 27 of the TNVAT Act, shall independently decide the issue. An opportunity to file objections and to explain the case during the personal hearing, shall be afforded to the petitioner/dealer.

5. In the instant case, the assessing authority has brushed aside the request made by the petitioner for personal hearing and drastically failed to consider the objections in view of the sworn statement was given before the inspection team.

6. This, in the considered opinion of this Court, is in utter violation of principles of natural justice. As stated supra, the assessing authority shall independently consider the objections and decide the matter after affording an opportunity of personal hearing to the dealer concerned.

7. In the instant case, the petitioner has not only sought for a personal hearing, but also sought for certain documents to be provided for submitting effective objections. Since the order passed is in violation of principles of natural justice, without providing the documents or affording the opportunity of personal hearing, I am inclined to set aside the impugned order passed by the respondent in TIN:33746183968/2012-13, dated 28.03.2018 and accordingly, the same is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to provide the relevant documents sought for by the petitioner for filing effective objections. A further direction is given to the petitioner to submit his objections within a period of fifteen days from the date of receipt of documents from the respondent. On receipt of the objections, the respondent shall decide the matter after providing an opportunity of personal hearing to the petitioner, within a period of one month thereafter.

8. In the result, this writ petition is disposed of as above. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

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Sub Assistant Registrar

To

The State Tax Officer,
Kuzhithurai at Kattathurai,
Kanyakumari District.

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+1cc to Special Government Pleader, SR.No.67355.

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RAM/SV/SAR 4/27.06.2018/3P/3C