BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14564 of 2015 and
M.P.(MD)No.1 of 2015

M/s.Solamalai Automobiles Private Limited,
Represented by its Director P.Karmegamani,
28/5B, Melur Road, uthankudi,
Madurai. ... Petitioner

Vs.

The Commercial Tax Officer,
Melur Assessment Circle,
Melur. ... Respondent

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in TIN 33444941175/2009-10 dated 17.07.2015 and quash the same as illegal and contrary to the provisions of the Act and direct the respondent to pass an assessment order afresh considering the reply dated 10.01.2015 along with records submitted after affording the opportunity of being heard.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.Aayiram K.Selvakumar,
Additional Government Pleader.

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O R D E R

The Writ petitioner herein is a dealer in automobiles and spares. The subject matter pertains to the assessment year 2009 to 2010. The petitioner was issued with a notice dated 28.05.2014. The petitioner herein offered his objections. Without considering the objections filed by the Writ petitioner herein, the impugned order dated 17.07.2015 came to be passed. The same is challenged in this Writ petition.

2. The authority has filed its counter affidavit in which it has been fairly admitted as follows:-

> "(6) The dealer's objection letter dated Nil has been received in this office on 13.01.2015. But being unaware of the fact that the dealer had filed objection along with the required particulars as called for in this office notice dated 28.05.2014, on the basis of records available with the file orders were passed

without considering the objections filed by the appellant."

3. Therefore, the order impugned in this Writ petition is set aside and the matter is remitted to the file of the respondent to pass orders afresh in accordance with law, after affording an opportunity of personal hearing to the petitioner herein.



4. It is true that a subsequent order dated 19.09.2016 has been passed. But then, that is more in the nature of an erratum and in continuation of the earlier proceedings. When the earlier proceedings have been set aside, in the very nature of things, the respondent will have to pass orders afresh in accordance with law.

5. The Writ petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(T AND P)

/True Copy/

Sub Assistant Registrar(CS-III)

To
The Commercial Tax Officer,
Melur Assessment Circle,
Melur.

• 1 CC TO Mr.S.Karunakar, ADVOCATE IN SR No.94566.
+1 cc to Special Government Pleader, SR.No.94758.

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