BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **12.06.2018**
CORAM:
THE HONOURABLE MR.JUSTICE **M.GOVINDARAJ**

W.P.(MD)No.12404 of 2018
and
W.M.P.(MD)No.11271 of 2018

M/s.Anbu Enterprises,
Represented by its Proprietor,
V.Anbalagan : Petitioner

Vs.

The Commercial Tax Officer (ST),
Thanjavur - I Assessment Circle,
Sachidananda Moopanar Road,
Thanjavur. : Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the respondent in TIN No.33873802983/2017-2018, dated 30.04.2018 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan
For Respondent : Mr.A.Muthukaruppan,
Additional Government Pleader

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ORDER

The petitioner has come forward with the present Writ Petition seeking for issuance of a Writ of Certiorari, to call for the records of the respondent in TIN No.33873802983/2017-2018, dated 30.04.2018 and quash the same as illegal.

2. The petitioner is a dealer in Paints, Hardwares, etc., having registration under the Tamil Nadu Value Added Tax Act, 2006. The respondent issued a revision notice pursuant to an inspection conducted on 09.05.2017 and 10.05.2017. It is proposed that the revision of assessment on the basis of web report requires to be made and hence, called for objections from the petitioner. The petitioner submitted his objections on 16.04.2018. However, no personal hearing was afforded to the petitioner. In fact, the impugned order reflects that personal hearing was fixed on 11.04.2018, even before the receipt of the objections.

3. The learned counsel for the petitioner would contend that whenever there is a reliance placed on web report, the assessing authority should conduct an enquiry into the same and find out whether such transaction is actually taken place or not and thereafter, issue proposals. The learned counsel would rely on a judgment of this Court in W.P.No.21557 of 2017, dated 11.08.2017, wherein, the learned Judge has observed as under:

> **"5. This Court has repeatedly pointed out that if assessments are sought to be reopened based on the information culled out from the official website, the Assessing Officers cannot assess the dealer to tax without conducting an enquiry and in fact elaborate procedure has been suggested in the decision of this Court in JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [99 VST 343]. However, the respondent did not embark upon any such exercise, though he has admitted in the impugned assessment order that mere information on website may not constitute information. Therefore, the impugned order to the said extent proposing to assess the petitioner to higher rate of tax based on information gathered from the department website has to be set aside."**

4. From the perusal of the impugned order, it is clear that no personal hearing was afforded to the petitioner pursuant to the objections made by the the petitioner. Therefore, the impugned order dated 30.04.2018 is set aside and a direction is issued to the respondent to conduct enquiry as to the information found in the website, as observed by the learned Single Judge above, following the decision of this Court in **JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [99 VST 343].** The respondent is directed to conduct an enquiry and send the proposal to the petitioner with all details. Furthermore, as per Section 22(4) of the Tamil Nadu Value Added Tax Act, 2006, it is mandatory to afford personal hearing to the petitioner. Therefore, the respondent is directed to afford personal hearing after furnishing all the details to the petitioner and thereafter, proceed with the process of passing final assessment orders.

5. The Writ Petition is allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer (ST),
Thanjavur - I Assessment Circle,
Sachidananda Moopanar Road,
Thanjavur.

+1cc to Mr.K.Soundararajan, Advocate Sr.No.67912
+1cc to Spl.Government Pleader Sr.No.68003

SML

VB/PN/SAR4/03.07.2018/3P/4C

Order made in
W.P.(MD)No.12404 of 2018
12.06.2018