



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

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W.P. (MD) No.12806 of 2018
and
W.M.P. (MD) No.11696 of 2018

M/s.Yazh Achagam,
Represented through its Proprietor,
Duraismay : Petitioner

Vs.

The Assistant Commissioner (CT),
Karur North Assessment Circle,
Karur,
Karur District. : 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 pertaining to the impugned order passed by the respondent vide his proceedings in TIN : 33473661680/16-17, dated 14.02.2018, and quash the same as illegal.

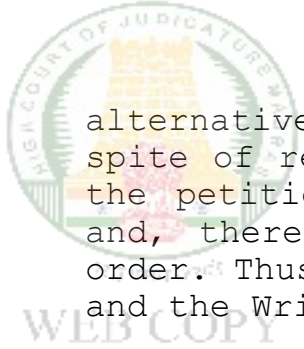
For Petitioner : Mr.R.Aravindan
For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader

ORDER

The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 dealing with paper and paper boards. He filed return for the assessment year 2016-2017. Pursuant to the inspection conducted by the Enforcement Officials in the place of business of the petitioner on 25.01.2017, a revision notice was issued by the respondent on 18.01.2018. Earlier, the petitioner submitted his reply on 05.12.2017 and 07.12.2017 requesting certain documents and also for personal hearing in respect of various assessment years. However, by proceedings in TIN : 33473661680/16-17, dated 14.02.2018, the respondent has passed the final order in violation of principles of natural justice. Aggrieved over the same, the petitioner is before this Court.

2. According to the petitioner, he sought for certain documents, but, without providing the documents, the impugned order came to be passed. Therefore, the order dated 14.02.2018 is sought to be set aside.

3. The respondent has filed a counter-affidavit stating that the petitioner has approached this Court without exhausting the



alternative remedy of appeal available to him under the Act. In spite of receipt of notice dated 18.01.2018 calling for objections, the petitioner neither appeared in person nor filed his objection and, therefore, the respondent was constrained to pass the final order. Thus, there is no violation of principles of natural justice and the Writ Petition deserves to be dismissed in limine.

4. I have considered the submissions made on either side.

5. On a perusal of the letter dated 07.12.2017 submitted by the petitioner to the respondent in respect of various assessment years, it is very clear that he has sought for certain inspection report and other relevant documents for filing his objections. He has also sought for sufficient time for submitting his explanation on receipt of the documents sought for by him and for personal hearing. However, the impugned order came to be passed without affording an opportunity of personal hearing to the petitioner. Principles of natural justice requires, when a dealer seeks for certain documents for filing an effective objection, it is incumbent on the respondent to furnish those details and call for objections. Without furnishing the details and without receiving the objections, the respondent cannot hasten to pass orders. In such circumstances, the impugned order dated 14.02.2018 is certainly passed in violation of principles of natural justice.

6. In view of the above observation, the impugned order dated 14.02.2018 passed by the respondent is set aside and the matter is remitted back to the respondent for fresh consideration. The respondent is directed to provide the materials sought for by the petitioner and on receipt of those materials, the petitioner shall submit his objections, within a period of fifteen days. Thereafter, the respondent shall afford an opportunity of personal hearing and pass final orders, within a period of one month.

7. The Writ Petition is allowed as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Assistant Commissioner(CT),
Karur North Assessment Circle,
Karur,
Karur District.



COPY TO:
The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1cc to M/S.R.Aravindan, Advocate SR.No. 72720
+1cc to Special Government Pleader, SR.No. 72811

Order made in
W.P. (MD) No.12806 of 2018
Dated: 12.07.2018

(2/2)

sml
JM/PN/SAR 1/24.07.2018/3P/5C