BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.14256 of 2018
and
W.M.P.(MD)No.12922 of 2018

Alangar Enterprises,
Represented by its' Proprietrix,
A.Ponnammal : Petitioner

Vs.

The State Tax Officer (Main),
Tuticorin-III,
Beach Road, Tuticorin. : Respondent

PRAYER: Writ Petition is 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 No.33245920791/2012-13, dated 25.05.2018 and quash the same and consequently, direct the respondent to grant an opportunity to submit a reply to the pre-assessment notice dated 20.04.2018 and then pass orders after granting to the petitioner an opportunity of personal hearing.

For Petitioner : Mr.M.Azeem

For Respondent : Mr.S.Dhayalan,
Government Advocate

ORDER

The petitioner was served with a pre-assessment notice by the respondent for the return submitted by her for the assessment year 2012-2013. She received the pre-assessment notice on 20.04.2018 and sent a reply on 01.05.2018 seeking the details of purchase, as obtained by the respondent from the web report. The respondent, vide their letter dated 07.05.2018, have furnished the details of purchase secured from the web report by registered post. In the impugned order, the Assessing Officer mentioned that the details sent by RPAD were received by the dealer on 09.05.2018 and fifteen days time was also granted for filing their objection. Fifteen days time lapsed on 24.05.2018. However, the impugned order came to be passed on 25.05.2018. Even assuming that the time for filing objection lapses on 24.05.2018, it is mandatory for the Assessing Authority to provide an opportunity of personal hearing before passing final order.

2. In the instant case, it is apparent from the perusal of the records that the impugned order came to be passed on the expiry of fifteenth day without affording an opportunity of personal hearing to the petitioner. The Head of the Department had given written instructions laying down the procedures for passing assessment orders. It has been clearly mentioned in those instructions that the dealers shall be given an opportunity for filing their objections and after the expiry of the time granted for filing objection, whether objections were filed or not, an opportunity of personal hearing should also be given. But, in the instant case, as mentioned above, the Assessing Authority hastened to pass orders without waiting for objection from the dealer and also without affording an opportunity of personal hearing. In such circumstances, this Court is inclined to set aside the impugned order dated 25.05.2018 as one violative of principles of natural justice.

3. In fine, the Writ Petition is allowed and the impugned order dated 25.05.2018 is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to receive objections, afford an opportunity of personal hearing to the petitioner and thereafter, pass orders on merits and in accordance with law. Such exercise shall be completed, within a period of two months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The State Tax Officer (Main),
Tuticorin-III,
Beach Road, Tuticorin.

+1CC to Mr.M.Azeem, Advocate, SR.No.71136
+1CC to the Special Government Pleader SR.No.71282

W.P(MD)No.14256 of 2018
04.07.2018

SML
ES/SV/SAR 1/12.07.2018/2P/4C