BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:09.02.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 5960 of 2014
and
W.M.P. (MD). Nos. 2 to 4 of 2014

SMI Concrete,
Rep. by its Partner S.Devendran
SF No.12/7, Grand Anaicut Road,
Thimmarayasamudram,
Trichy - 620 004. .. Petitioner

Vs.

1.The Commercial Tax Officer,
Thiruverumbur Assessment Circle,
Kajamalai Colony, Mannarpuram,
Trichy - 620 020.

2.Tahsildar/Revenue Inspector,
Thiruverumbur Taluk,
Trichy. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records comprised in the proceedings of the first respondent dated 17.7.2013 in TIN/33143564910/2010-11 and the consequent distraint order of the second respondent dated 7.2.2014 and quash the same as being arbitrary, illegal, contrary to the provisions of the Tamil Nadu value Added Tax Act 2006 and contrary to principles of natural justice and consequently direct the first respondent to provide a personal hearing as per the provisions of Tamil Nadu Value Added tax Act 2006.

For petitioner : Mr. Raguvaran Gopalan
for M/s.K.Prabhakar
For respondents : Mrs.S.Srimathy
Special Government Pleader

O R D E R
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Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

2. The petitioner is a manufacturer of Ready-mix Concrete. The petitioner is an assessee with the first respondent. In respect of the assessment year 2010-2011, the first respondent initiated proceedings under Section 27 of the Tamil Nadu Value Added Tax, 2006. Thereafter, the impugned order came to be passed on 17.07.2013. The first respondent no doubt has the power to re-open the concluded assessment but then the pre-revision notice will have to be given to the assessee. In this case, the assessment order refers to pre-revision notice dated 08.05.2013. The petitioner's definite stand is that the said notice was not served on the petitioner. The department is not in a position to furnish proof of service of the pre-revision notice. Thus, there has been a clear infraction of the statutory requirement set out in Section 27 of the Tamil Nadu Value Added Tax, 2006. It is also clearly violative of the principles of natural justice.

3. In this view of the matter, order impugned in the writ petition stands quashed. The matter is remitted to the file of the first respondent to proceed afresh in accordance with law. It is needless to say that the petitioner will have to be given a due notice of hearing and also personal hearing.

4. With this liberty, the Writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To:
1.The Commercial Tax Officer,
Thiruverumbur Assessment Circle,
Kajamalai Colony, Mannarpuram,
Trichy - 620 020.

2.Tahsildar/Revenue Inspector,
Thiruverumbur Taluk,
Trichy.

+1cc to Mr.K.PRABHAKAR, Advocate, SR.No.47892
+1cc to M/s.Special Government Pleader,SR.No.48250

W.P. (MD) No. 5960 of 2014
09.02.2018

KMI
KK/SV/03.05.2018/SAR-1/2P-5C