BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.2875 of 2015 and
MP(MD)No.1 of 2015

Tvl.Shumuga Priya Fire Works,
Rep.by its Proprietor T.Koodalingam,
D.4/327, Ettanaicken Patti,
Virudhunagar. ... Petitioner

Vs.

1. The State of Tamilnadu,
   Rep.by its Secretary to Government,
   Department of Commercial Taxes,
   Fort St.George, Beach Road,
   Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
   2nd Floor, Ezhilagam, Chepauk,
   Chennai - 600 005.

3. The Assistant Commissioner (C.T)-III,
   C.T. Buildings, Madurai Road,
   Viruthunagar.

4. The Commercial Tax Officer - III,
   C.T.Building, Satchiapuram,
   Sivakasi. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the revision order passed by the third respondent in his proceedings in TIN 33955761757/2013-14 dated 07.01.2015 received by the petitioner on 15.01.2015 and quash the same and to direct the third respondent to afford an opportunity to the petitioner permitting him to file the objections and pass fresh order of the assessment for the for the assessment year 2013-14.

For Petitioner : Mr.A.S.Mujibur Rahman
For Respondents : Mr.Aayiram K.Selvakumar
Additional Government Pleader

ORDER

The petitioner is an assessee registered with the third respondent. The assessment period is 2013-14. In respect of the assessment concluded on a deemed basis, pre-revision notice was issued. The writ petitioner did not offer any reply or objection. Nevertheless, as per the Circular No.7 of 2014 of the Commissioner of Commercial Taxes, Chennai - 5, dated 03.02.2014, an opportunity of personal hearing must be afforded to the dealer.

2.In this case, the dealer appears to have been under treatment on account of his indisposition. In as much as the personal hearing was not afforded to the petitioner herein before passing the order, the order impugned in this writ petition is set aside. This writ petition is allowed. The matter is remitted to the file of the third respondent to pass appropriate orders afresh in accordance with law. The petitioner shall offer his objections within a period of two weeks. Thereafter, the respondent shall afford an opportunity of personal hearing and then proceed to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-)

To

1. The Secretary to Government of Tamil Nadu,
   Department of Commercial Taxes,
   Fort St.George, Beach Road,
   Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
   2nd Floor, Ezhilagam,
   Chepauk, Chennai - 600 005.

3. The Assistant Commissioner (C.T)-III,
   C.T. Buildings, Madurai Road,
   Viruthunagar.

4. The Commercial Tax Officer - III,
   C.T.Building, Satchiapuram, Sivakasi.

+ 1 CC TO Mr.A.S.MUJIBUR RAHMAN, ADVOCATE IN SR No. 95353
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 95423

SKM
TE/PM/SAR-1 : 26/11/2018 : 2P/7C

WP(MD)No.2875 of 2015 and
MP(MD)No.1 of 2015
14.11.2018