BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.07.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)Nos.16743 and 16744 of 2018
and
W.M.P.(MD)Nos.14795 and 14796 of 2018

Tvl.R.V.Tiles & Granites,
represented by its Proprietor,
E.Rajesh Kumar, aged about 37 years,
S/o.P.Elamathi,
No.193, North Bye Pass Road,
Irudhaya Nagar,
Thirunelveli - 627 003. .. Petitioner in both the petitions

Vs.

1.The Commissioner of Commercial Taxes,
O/o.the Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The State Tax Officer,
Palayamkottai Assessment Circle,
Commercial Taxes Building,
Reserve Line Road,
Palayamkottai,
Thirunelveli - 627 002. .. Respondents in both the petitions

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the 2nd respondent in TIN 33495564906/2013-14 and TIN 33495564906/2014-15, respectively ante-dated as 30.04.2018 and quash the same and to direct the 2nd respondent to redo the assessment after conducting detailed enquiry and by giving adequate opportunity to the petitioner.

For Petitioner in both the petitions : Mr.Raja Karthikeyan

For Respondents in both the petitions : Mrs.J.Padmavathi Devi, Special Government Pleader

COMMON ORDER

The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006. He filed return for the assessment years 2013-2014 and 2014-2015. Pursuant to the surprise inspection made on 07.01.2015, revision notices were issued to the petitioner calling for objections on 09.04.2018 giving 15 days time. The petitioner received the show cause notices on 13.04.2018 and submitted his objections on 27.04.2018 by registered post. It appears that the 2nd respondent received the objections only on 02.05.2018. In the meanwhile, the impugned assessment orders came to be passed by the 2nd respondent on 30.04.2018. The assessment orders were sent to the petitioner by registered post on 04.05.2018 and reached the same to the petitioner on 05.05.2018. Aggrieved over the said orders, the petitioner is before this Court.

2. Heard the learned counsel appearing for both sides.

3. On a perusal of the impugned orders, it is seen that pre-revision notices dated 09.04.2018 itself were received by the petitioner only on 13.04.2017. Fifteen days time from the date ie., 13.04.2018 lapses only on 28.04.2018. The petitioner has sent his objections on 27.04.2018. But, the impugned orders are passed on 30.04.2018.

4. It is well settled by various judgments of this Court and also instructions issued by the Commissioner of Commercial Taxes that the assessing authority shall not be very rigid in fixing the time for filing objections and personal hearing. They should afford sufficient opportunity to the dealer for filing objection, if they sought for time even after the lapse of period. After receipt of objections, the personal hearing sought or not, the respondents must fix the date for personal hearing and communicate the same to the dealer concerned.

5. In the instant case, as contended by the learned counsel for the petitioner, even though he had submitted objections and sent it by registered post on 27.04.2018 itself, without awaiting objections, the 2nd respondent hastily passed the impugned orders on 30.04.2018. The opportunity of personal hearing is also not provided. It is highly improbable for him to fix the personal hearing within two days from the time limit fixed for filing objections and passing this order. Therefore, I have no hesitation to hold that the impugned orders are passed in violation of the principles of natural justice.

6. In view of the above, the impugned orders, dated 30.04.2018, are set aside and the matters are remanded back to the file of the 2nd respondent for consideration afresh. The 2nd respondent is directed to consider the objections filed by the petitioner and also provide an opportunity of personal hearing and then, to pass final orders on merits and in accordance with law, within a period of two months from the date of receipt of copy of this order.

7. Both the Writ Petitions stand disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Commissioner of Commercial Taxes,
O/o.the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The State Tax Officer,
Palayamkottai Assessment Circle,
Commercial Taxes Building,
Reserve Line Road,
Palayamkottai,
Thirunelveli - 627 002.

+1cc to Special Government Pleader, SR.No. 75765
+1cc to M/S.B.Rooban, Advocate SR.No. 75671

W.P(MD)Nos.16743 and 16744 of 2018
Dated: 30.07.2018

gcg
JM/MMS/SAR 3/11.08.2018/3P/5C