BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition(MD)No.17164 of 2018
and
W.M.P.(MD).Nos.15098 and 15099 of 2018

Tvl. KPN Auto Wings (P) Limited,
represented by its Proprietor
K.P.N.Rajesh,
No.17/7-B, Dindigul Road,
Piratiyur, Trichy-9. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy District. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records in TIN No.33653465350/2015-2016 dated 30.05.2018 on the file of the respondent and quash the same as illegal and against the principles of natural justice and direct the respondent to follow the rule of law.

For Petitioner : Mr.S.Sridhar
For Respondent : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

The petitioner is a registered Dealer under TNVAT Act, 2006. He filed returns for the assessment year 2015 - 2016, which was deemed to have been assessed. However, pursuant to the surprise inspection conducted by the Enforcement Wing Officials of Trichy Division, in the business place of the petitioner, on 12.09.2015 and 14.09.2015, certain defects were found. Pursuant to the same, a revision notice was issued by the respondent on 22.02.2018. The petitioner filed his objection on 06.03.2018. Thereafter, the respondent has fixed the date for personal hearing on 14.05.2018. The petitioner, by his letter dated 21.05.2018, sought for 10 days time for appearance, due to his ill-health. However, without considering the said request, the respondent has passed the final order on 30.05.2018. Aggrieved over the same, the petitioner is before this Court.

2. It is well settled that the Commissioner of Commercial Taxes has issued a direction to the Assessing Officer that while processing the assessment and while passing the assessment orders, the Assessing Authority is directed to be flexible, when an adjournment is sought for. In the instant case, the Dealer, citing the health reason has sought for 10 days time. It is incumbent on the Assessing Authority either to accept the request or to reject it, either way he has to communicate his decision, on the request made by the assessee. Without passing any order and without communicating the same to the Dealer, the Assessing Authority proceeded to pass final orders. In the process, the opportunity of personal hearing though offered, could not be availed of by the petitioner, the Assessing Authority could have extended the time and provided him an opportunity of personal hearing. Insofar as the opportunity of personal hearing is denied, the order passed by the respondent is in violation of principles of natural justice.

3. In order to give effective and meaningful personal hearing, the impugned order passed by the respondent in TIN No.33653465350/2015-2016, dated 30.05.2018 is set aside and the matter is remanded back to the respondent. The respondent is directed to afford an opportunity of personal hearing to the petitioner and pass orders on merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order. Accordingly, the writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Assistant Commissioner (CT),
Srirangam Assessment Circle,
Trichy District.

+1cc to Special Government Pleader, SR.No. 76996

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