BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.08.2018
CORAM:
THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition(MD)Nos.17181 to 17185 of 2018
and
W.M.P.(MD).Nos.15131 to 15135 of 2018

M/s. 7th Systems,
represented by its Proprietor S.Ashok,
No.63, "K.P.R.S. Tower",
Tennur High Road,
Trichy 620 017.
... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Woraiyur Assessment Circle,
Commercial Taxes Buildings,
Trichy. ... Respondent in all W.Ps.

Prayer: Writ Petitions are 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.33253443939/2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, dated 27.04.2018 issued by the respondent and quash the same is wholly without jurisdiction, being contrary to the judgment of this Hon'ble Court reported in the case of the Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai vs. Infiniti Wholesale Limited reported in 2017 (99) VST 430 and direct the respondent to conduct an enquiry with other end dealers as contemplated under Section 27 of the TNVAT Act, 2006 and pass an assessment order afresh, in the light of the guidelines enunciated in the batch of writ petitions in the case of M/s. JKM Solutions Private Limited reported in 2017(99) VST 34 3 (Mad) including the opportunity of personal hearing to the petitioner.

For Petitioner in all W.Ps. : Mr.S.Karunakar
For Respondent in all W.Ps. : Mr.A.Muthukaruppan
Additional Govt. Pleader

COMMON ORDER

The petitioner is a registered Dealer under TNVAT Act, 2006, under the respondent. He filed returns for the assessment years 2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, which were deemed to have been assessed. But, during the surprise inspection conducted by a Team of Enforcement Wing Officials on 04.01.2017 and 05.01.2017, certain defects were found, on verification of accounts. On receipt of the report from the Team of Enforcement Wing Officials, the respondent has issued a pre-revision notice, on 13.10.2017. The petitioner has filed his reply on 02.03.2018 and he has also sought for certain details, which are also supplied by the respondent. Thereafter, a date was fixed for personal hearing. Despite receipt of the details, the petitioner did not file any objection and appear for the personal hearing.

2. The learned counsel appearing for the petitioner would submit that since the records pertaining to the assessment year 2011 - 12 were to be traced, he could not immediately file his reply and appear for personal hearing. Even though a larger relief was sought for to set aside the impugned order, the learned counsel for the petitioner would submit that it would suffice if one more opportunity is granted to the petitioner for submitting his objection, production of documents and for personal hearing.

3. It is well settled that in a case of mismatch, the opportunity of personal hearing is very much essential and that would be meaningful and constructive. In the instant case, the petitioner has come forward with the records pertaining to the assessment year 2011 - 12 onwards and willing to present before the concerned Assessing Authority. In such circumstances, considering the interest of justice, this Court is of the opinion that one more opportunity can be provided to the petitioner on condition of payment of 15% tax fee assessed by the Assessing Authority within a period of 15 days from the date of receipt of a copy of this order. The order passed by the respondent in TIN No.33253443939/2011-12, 2012-13, 2013-14, 2014-15 and 2015-16, dated 27.04.2018 is set aside and the matter is remitted back to the Assessing Authority for fresh consideration, on condition that the petitioner deposits 15% of the tax due within a period of 15 days from the date of receipt of a copy of this order. The respondent shall on compliance with the conditions by petitioner, pass orders on merits and in accordance with law, without being influenced by the report of the Enforcement Wing Officials, after providing an opportunity of personal hearing to the petitioner, within a period of four weeks thereafter.

4. These writ petitions are disposed of, with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar(CS-II)

To

The Commercial Tax Officer,
Woraiyur Assessment Circle,
Commercial Taxes Buildings,
Trichy.

+1cc to Mr.S.Karunakar, Advocate SR.No.76772
+1cc to SPECIAL GOVERNMENT PLEADER, SR.No.77321
AKV
MK/SKN/SAR 2/31.08.2018/3P/4C

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