BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.19158 of 2018
and
WMP(MD)No.17007 of 2018

R.Pankiraj ... Petitioner

Vs.

The State Tax Officer,
Commercial Taxes Building,
Thuckalay. ... Respondent

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 in TIN 33746162919/2007-08 dated 09.07.2018 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass an assessment order afresh after considering the representation dated 06.03.2018 affording opportunity of being heard.

For Petitioner : Mr.N.Sudalaimthu

For Respondent : Mr.Aayiram K.Selvakumar
Additional Government
Pleader.

ORDER

The petitioner is an assessee registered with the respondent. The subject matter pertains to the assessment year 2007-08. He received revision notice under Section 27 of the TNVAT Act. In response to the said notice dated 18.01.2018, the petitioner herein submitted his representation on 08.02.2018 asking for certain documents. Therefore, one more notice came to be issued on 27.02.2018 and some of the documents sought for by the petitioner were furnished. Based on the same, the petitioner submitted his second objection for the second time on 06.03.2018.

2.Even though the petitioner had offered his reply, the impugned order dated 09.07.2018 came to be issued as if the petitioner did not offer any reply. Therefore, on the very face of it, the order impugned in this writ petition suffers from non application of mind. Hence, the order impugned in this writ petition is liable to be set aside. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law after giving an opportunity of personal hearing to the writ petitioner. This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

3.The writ petition was listed for admission on 04.09.2018. Mr.D.Murugananantham, the learned Additional Government Pleader took notice for the sole respondent and sought time to get instructions. The matter was therefore posted on 10.09.2018. When the matter was listed again on 10.09.2018 at the request of the respondent's side, the matter was adjourned by one week for filing counter. Thereafter, it was posted on 18.09.2018. Again, there was a request for filing counter and the matter was further adjourned to 03.10.2018. On 03.10.2018 also, time was sought for filing counter. Hence, the matter was adjourned to 22.10.2018. Since there was no response on the side of the respondent, the matter was listed in the second week of November, 2018. That is how, the matter has now been listed today.

4.It is seen that this small matter was listed before this Court on five occasions. In the morning, the learned Additional Government Pleader informed the court that he is yet to receive instruction in the matter. This Court wanted to know whether the respondent was duly intimated about the filing and repeated adjournments of the case. Thiru.P.Soundararajan, Sales Tax Officer (Legal), Madurai is present before me in person. He informs the court that on every occasion he promptly informed the Commercial Tax Officer, Thuckalay.

5.The standard practice is to inform the concerned respondent authority through over phone as well as mail. In this case, such a mail communication had been sent atleast on two occasions. It is therefore surprising that the respondent has not chosen to respond. If notice from the High Court is to be treated casually, this Court cannot remain a silent spectator. Therefore, the Commissioner of Commercial Taxes, Chennai is directed to look into the matter and file a report before this Court on 20.11.2018.

Sd/-
Assistant Registrar(Crl.Side)

/True Copy/

Sub Assistant Registrar(CS-I)

Skm

To

1.The Commissioner of Commercial Taxes,
Chennai.

2.The State Tax Officer,
Commercial Taxes Building,
Thuckalay.

Copy to:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

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NM/SV/SAR I/15.11.18/3P/4C.