**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 28.11.2018**

**CORAM :**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**WP(MD)Nos.19074 to 19077 of 2016**
**and**
**WMP(MD)No.13777 to 13780 of 2016**

Tvl.R.K.Plastics
Rep.by its Partner,
M.Ramesh ... Petitioner in all writ 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 Assistant Commissioner (CT), III,
Commercial Tax Building,
Sub-Collector's Office Road,
Dindigul - 624 001. ... Respondents in all writ petitions

**Prayer** : Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned proceedings of the second respondent in TIN Nos.33335241208/2007-08, 33335241208/2008-09, 33335241208/2013-14 and 33335241208/2014-15 dated 29.07.2016 and quash the same.

For Petitioner
in all writ petitions : Mr.N.Rooban

For Respondents
in all writ petitions : Mr.Aayiram K.Selvakumar,
Additional Government Pleader

**ORDER**

The petitioner is an assessee registered with the second respondent. The petitioner appears to have given a criminal complaint against the then Assessing Officer Thiru.A.Jawahar Ali in respect of a occurrence said to have taken place on 24.03.2015. An FIR was registered in that connection. It is seen that final report was also filed. While so, pre-revision notices were issued subsequently, in respect of various assessment years. The petitioner herein took a stand that since he has given the complaint, he will not get a fair hearing and that therefore, he will not cooperate with the enquiry. In such a background, the impugned orders came to be passed on 29.07.2016. Questioning the same, these writ petitions have been filed.

2.Heard the learned counsel on either side.

3.This Court is able to note that non submission of objection or participation in the enquiry was on account of the strained relationship between the petitioner and the erstwhile assessing officer. That is why, the petitioner has been giving successive letters seeking adjournments. In such a situation, the then Assessing Officer could have obtained a clearance from his superior officer and transferred the matter to some other Assessing Officer. Such a course of action was not taken.

4.Since the final orders of assessment have been passed without the benefit of explanation from the petitioner, I am of the view that the principles of natural justice have been violated in this case. Therefore, the orders impugned in these writ petitions are set aside. These writ petitions stand allowed. The petitioner shall file his objections within a period of two weeks from the date of receipt of a copy of this order. The erstwhile Assessing Officer has changed. The petitioner need not be under any apprehension regarding the fairness of enquiry. The second respondent shall pass orders afresh in accordance with law after affording an opportunity of personal hearing to the petitioner.

5.Even before taking up the matter for hearing, this Court indicated to the petitioner's counsel that the petitioner is not justified in criminally prosecuting the then Assessing Officer. The learned counsel for the petitioner on instructions from the petitioner submitted that the petitioner would be ready to compound the proceedings. It is made clear that by agreeing to amicably resolve the issue, it does not mean that Thiru.A.Jawahar Ali is compromising his position. The undertaking of the petitioner through his counsel to compound the case is placed on record.

6.This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

SD
ASSISTANT REGISTRAR ( P AND A )

TRUE COPY



SUB ASSISTANT REGISTRAR ( CS III )

*Skm*

To

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

2.The Assistant Commissioner (CT), III,
Commercial Tax Building,
Sub-Collector's Office Road,
Dindigul - 624 001.

1CC TO THE SPL GOVT PLEADER SR 97848

KK SV SAR 3
28 12 2018
3P 4C

**WP(MD)Nos.19074 to 19077 of 2016**
**and**
**WMP(MD)No.13777 to 13780 of 2016**

**28.11.2018**