IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.735 & 744 of 2019
and
WMP.Nos.817, 813, 823 & 824 of 2019

M/s.G.V.International Granites
Rep. by its Proprietor of V.Subash
No.5/4, Goripalayam Road,
Mannargudi, Tiruvarur District-614 001. ...Petitioner
(in both WPs)

vs.

The Commercial Tax Officer
Mannargudi
Tiruvarur District. ...Respondent(in both WPs)

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33243862742/2014-2015 & 2013-2014 dated 13.03.2018 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner	:	Mr.S.Sivakumar (in both WPs)
For Respondent	:	Mr.M.Hariharan Additional Government Pleader (in both WPs)

C O M M O N O R D E R

Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, these main writ petitions are taken up for final disposal at the admission stage itself.

2. These writ petitions are filed challenging the orders of assessment dated 13.03.2018 relevant to assessment years 2013-2014 & 2014-2015 respectively.

3. The main grievance of the petitioner before this Court against the impugned assessment orders is that the same were passed in violation of principles of natural justice, as the petitioner was not afforded with an opportunity of personal hearing, despite asking for the same. Apart from that, it is contended even though the reply was filed as early as in the

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month of September 2016, the impugned orders were passed nearly after two years, that too, without affording an opportunity of personal hearing.

4. The learned counsel for the petitioner reiterated the above contention and submitted that the impugned orders are liable to be interfered with.

5. The learned Additional Government Pleader for the respondent fairly admitted to the fact that the petitioner was not afforded with an opportunity of personal hearing, even though the objections raised by the petitioner were considered by the Assessing Officer.

6. Heard both sides.

7. It is seen that the Assessing Officer issued the notices of proposal on 29.07.2016 and that the petitioner filed their reply on 10.09.2016. It is further seen that in the reply, the petitioner has also specifically sought time for furnishing documentary evidence. Such request, in effect is for personal hearing. The Assessing Officer however, without affording any such opportunity, has chosen to pass the impugned order nearly after a period of 1½ years.

8. Perusal of the assessment orders would show that the Assessing Officer has also chosen to impose penalty. Needless to say that under the above stated facts and circumstances, affording an opportunity of personal hearing is essential before concluding the assessment. Since such opportunity was not given in this case, this Court is inclined to interfere with the assessment orders, without expressing any view on the merits of the same, only on the ground of violation of principles of natural justice. Accordingly, both these writ petitions are allowed and the impugned orders of assessment are set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment and pass fresh orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mk

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To

The Commercial Tax Officer
Mannargudi
Tiruvarur District.

+2cc to Mr.S.Sivakumar, Advocate, S.R.No. 3397, 3398
+2cc to the Special Government Pleader(Taxes), S.R.No. 3515, 4286

WP Nos.735 & 744 of 2019

CA(CO)
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