IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.891 of 2019
and
WMP.No.999 of 2019

M/s.Bright India
Rep. by its Proprietor
No.95 (Plot No.B2), Jeeva Nagar
Korukkupet, Chennai-600 021. ...Petitioner

vs.

The Commercial Tax Officer
Washermenpet Assessment Circle
No.20, Kummalamman Koil Street,
Chennai-600 018.
...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in CST No.95930/2016-2017 dated 24.08.2018 (received on 02.01.2019) and quash the same as illegal and ultra vires to the principles of natural justice and further direct the respondent to provide an opportunity and consider the documents already filed.

For Petitioner : Mrs.C.Rekha Kumari
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 24.08.2018 relevant to assessment year 2016-2017.

3. The main grievance of the petitioner before this Court as against the impugned order is that the same was passed in violation of principles of natural justice, since no notice of

proposal was issued to the petitioner before passing the assessment order.

4. An affidavit filed in support of this writ petition clearly states that no such notice was issued on the petitioner. Perusal of the impugned order does not show anywhere about the issuance of any notice to the petitioner. On the other hand, the Assessing Officer seems to have proceeded to pass the order of assessment without making the proposal and giving an opportunity of personal hearing to the petitioner to put forth their objections. Therefore, on the face of the impugned order, it is evident that the same came to be passed in violation of principles of natural justice.

5. Under such circumstances, this Court is inclined to interfere with the impugned order only on the ground of violation of principles of natural justice and not on the merits of the assessment. Accordingly, this writ petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to re-do the assessment from the stage of issuance of notice of proposal. The Assessing Officer shall also provide an opportunity of personal hearing to the petitioner after receiving the reply to the notice of proposal. The whole exercise shall be done by the Assessing Officer within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To
The Commercial Tax Officer
Washermenpet Assessment Circle
No.20, Kummalamman Koil Street,
Chennai-600 018.

+1cc to Mrs.C.Rekha Kumari, Advocate sr.no.3443
+1cc to Special Government Pleader(Taxes) sr.no.3510

WP No.891 of 2019

nr 06/02/2019