IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.31073 of 2013
and
W.M.P.Nos.1 to 3 of 2013

K.N.Industries,
Represented by its proprietor Shri K.S.Ganesh,
Old No.36/1, New No.47,
"MANGAL SHREE",
Puliyur, 2nd Main Road,
Kodambakkam, Chennai - 600 024. ... Petitioner

Vs.

1.Assistant Commissioner (Commercial Tax),
Vadapalani II Assessment Circle,
Sire Mansion, 1st floor,
Anna Salai, Chennai - 600 006.

2.Commercial Tax Officer,
Vadapalani II Assessment Circle,
Sire Mansion, 1st floor,
Anna Salai,
Chennai - 600 006. ... Respondents

Prayer: Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, calling for the records of the 1st respondent comprised in the order dated 24.06.2013 and bearing Proceeding No.TNGST/1481567/2004-2005 and quash the same as illegal, arbitrary and violative of the provisions of the Tami Nadu General Sales Tax Act, 1959 and the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.Rangasaran Mohan
for Mr.Sathish Parasaran

For Respondents : M/s.G.Dhanamadhri
Government Advocate

O R D E R

The petitioner has challenged the impugned order dated 24.06.2013 passed by the first respondent pursuant to notice dated 11.09.2007 issued by the 2nd respondent. The learned counsel for the petitioner submits that the impugned order has been passed in gross violation of principles of natural justice and therefore the impugned order is liable to be quashed.

2.Per contra, the learned counsel for the respondent submits that the mandate of Section 16(i)(a) of the TNGST Act, 1959 merely contemplates the issue of notice giving a liberty to show cause. It does not contemplate any personal hearing and therefore the impugned order is liable to be sustained and the Writ Petition has to be dismissed.

3.Heard the learned counsel for the petitioner and the respondent.

4.It is evident that the impugned order has been passed in violation of principles of natural justice as no opportunity was given to the petitioner before the impugned order was passed. A show cause notice of the year 2007 dated 11.09.2007 was issued, to which the petitioner had also given a reply on 10.10.2007. Therefore, before passing any final order the first respondent issued a notice herein to the petitioner to make a early submission. The impugned order has been passed in gross violation of principles of violation of natural justice, hence, the impugned order is set aside and the case is remitted back to the respondent to pass appropriate order within a period of three months from the date of communication of this order. Since the impugned order has been set aside, there shall be no further recovery proceeding pertaining to the assessment year 2004 & 2005.

5.In view of the above, this Writ Petition is disposed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (Commercial Tax),
Vadapalani II Assessment Circle,
Sire Mansion, 1st floor,
Anna Salai, Chennai - 600 006.

2.The Commercial Tax Officer,
Vadapalani II Assessment Circle,
Sire Mansion, 1st floor,
Anna Salai, Chennai - 600 006.

+1cc to Mr.R.Parthasarathy, Advocate SR.No.105846

W.P.No.31073 of 2013
and W.M.P.Nos.1 to 3 of 2013

PP(CO)
GMY(18/02/2020)