IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :29.05.2019
CORAM
THE HON'BLE MR.JUSTICE Ms.JUSTICE P.T.ASHA
W.P.No. 15014 of 2019
and
WMP.No.14974 of 2019

M/s. S.P.Enterprises,
Represented by its Proprietor,
P.Mayilvahanan,
No.33/2, Kavirathi Illam,
T.V. Palayam Puthur,
Perundurai,
Erode District- 638 052.

..Petitioner

vs

The State Tax Officer,
Office of the Assistant Commissioner (ST),
Perundurai,
Erode District.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari or any other appropriate writ, order or direction in the nature of a writ, to call for the records of the respondent in TIN No.33592926451/2014-2015 dated 25.04.2019 and quash the same as ex-facie illegal, without jurisdiction and against the provisions of the Act.

For Petitioner : Mr. Soundara Rajan K
For Respondent : Mr V. Haribabu, AGP(T)

O R D E R

Without going into the merits of the case, it is seen that the only grievance which has been put forward by the writ petitioner is that the reply has not been filed by him and without giving him an opportunity, orders have been passed.

2. Learned counsel for the respondent would submit that the writ petitioner by letter dated 08.04.2019 has sought time till 23.04.2019 to submit his reply and the impugned order has been passed only on 25.04.2019.

3. The learned counsel for the writ petitioner would draw the attention of this Court to a similar matter in W.P.Nos 3003 and 3006 of 2017, wherein in respect of similar set of facts

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this Hon'ble Court has passed the following order:

> "10. The petitioner is, in my view, right in contending that he had no clue as to whether or not his request for adjournment had been considered. Therefore, quite naturally, as contended before me, by the learned counsel for the petitioner, the petitioner would have been taken by surprise, when the impugned orders were passed. Therefore, notwithstanding the fact that the orders were passed after a period of one month had expired, which is the period of accommodation sought for by the petitioner, the grievance of the petitioner did not get addressed, which is that the had no opportunity to present his case.
>
> 11. Thus, without getting into the merits of the matter, the impugned orders are set aside. Liberty is however, granted to the respondent/assessing officer to redo the assessment after giving due opportunity to the petitioner. For this purpose, the petitioner will appear before the respondent/assessing officer on 28.02.2017 at 11.a.m. In case, the said date is not convenient to the respondent/assessing officer, he shall fix a fresh date which will be proximate to the date indicated above. The petitioner will present himself before the respondent/assessing officer, with documents, in original, on which, he seeks to place reliance to advance his case. Similarly, respondent/assessing officer will furnish materials and information, which is in his possession, based on which, the proposes to reverse the ITC and/or impose tax or penalty on the petitioner.
>
> 12. The writ petitions are disposed of, in terms of the aforementioned directions. Consequently, the connected pending applications are also closed. However, there shall be no order as to costs."

4. This Court considering the fact that the instant case also involves identical facts is passing a similar order, namely, the impugned order is set aside and liberty is granted to the respondent/assessing officer to redo the assessment after giving an opportunity to the writ petitioner. The respondent shall supply necessary documents to writ petitioner within one (1) week from the date of receipt of a copy of this

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order. Within one week there from, the writ petitioner will submit his reply and appear before the respondent/assessing officer and thereafter order shall be passed by the assessing officer. Writ Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrn

To

1. The State Tax Officer,
Office of the Assistant Commissioner (ST),
Perundurai,
Erode District.

+1cc to Special Government Pleader(Taxes) sr.44431
+1cc to Mr. Soundara Rajan K, Advocate sr.44411

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nr 25/06/2019

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