IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.32194 of 2018

Tvl.R.K.Dyeing
Rep. by its partner
R.K.Sivananthan ...Petitioner

vs.

The Assistant Commissioner
Office of the Assistant Commissioner (CT)
Tiruchengode (Rural)
Tiruchengode. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent in TIN No.33573203494/2014-2015 dated 07.11.2017 and quash the same and direct the respondent to provide the petitioner with an opportunity of personal hearing to represent his case.

For Petitioner :Mrs.Niranjan Rajagopalan

For Respondent :Mr.M.Hariharan
Additional Government Pleader

O R D E R

This writ petition is filed challenging the order of assessment dated 07.11.2017 relevant to the assessment year 2014-2015.

2. Heard both sides.

3. The main grievance of the petitioner is that the Assessing Officer concluded the assessment without affording an opportunity of personal hearing. It is the specific case of the petitioner that though the respondent through the letter dated 21.02.2017 fixed the date of personal hearing on 01.03.2017, no such personal hearing took place on the said date, since the respondent was busy with some other work in connection with the introduction of Goods and Service Tax. Therefore, it is contended that without conducting personal hearing on any other day, the Assessing Officer has proceeded to pass the impugned order as if personal hearing was already conducted.

4. When the matter was taken up for hearing earlier, this Court, going by the affidavit filed by the petitioner, directed the learned counsel for the petitioner to file supporting affidavit of the counsel, who appeared at the time of personal hearing.

5. Today, the learned counsel viz., S.Senthil Kumar, who attended the personal hearing before the respondent filed the supporting affidavit before this Court, wherein it is stated as follows:

> "1. I respectfully submit that I was the counsel for the petitioner in the proceedings before the respondent and that I am well acquainted with the facts and circumstances of the case.
>
> 2. I respectfully submit that I am filing this affidavit in support to the affidavit dated Nov 2018 and the reply affidavit dated 21.09.2019 filed by the petitioner in the above writ petition.
>
> 3. I further respectfully submit that the respondent issued a letter dated 21.02.2017 to the petitioner fixing a date for personal hearing on 01.03.2017 and on the said date I attended the hearing and had also signed the order sheet for having attended the hearing, but the office concerned named Sri.A.Tamilselvan informed me that he was busy with some work in connection with introduction of Goods and Services Tax and therefore, the hearing will take place on another date and that a fresh notice will be issued for the same."

6. A copy of the said affidavit is also served on the learned Additional Government Pleader appearing for the respondent, who in turn fairly submitted that the matter may be remitted back to the Assessing Officer to redo the assessment after giving an opportunity of personal hearing to the petitioner.

7. Considering the limited scope of the present writ petition, wherein the challenge made against the impugned order of assessment was only on the reason that no personal hearing was given and considering the fact that an effective personal hearing seems to have not been given to the petitioner, this Court is of the view that the matter needs to be considered afresh after providing an opportunity of personal hearing.

8. Accordingly, without expressing any view on the merits of the matter, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the respondent/Assessing Officer for passing fresh order. The respondent, thus, shall pass fresh order after providing 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.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mk

To
The Assistant Commissioner
Office of the Assistant Commissioner (CT)
Tiruchengode (Rural)
Tiruchengode.

+1cc to M/s.G.R.Associates, Advocate SR.84449
+1cc to Spl Government Pleader(Taxes) SR.85278

W.P.No.32194 of 2018

NRL(CO)
CB(12/11/2019)