IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.34393 of 2018
and
W.M.P.No.39962 of 2018

M/s. Compuage Infocom Ltd,
represented by its Authorised Signatory
Mr.P.Balamurugan
Nagappa Centre, No.2 Lalithapuram
Gowdiayamutt Road
Royapettah, Chennai 600 014 ...Petitioner

vs.

The Assistant Commissioner (ST),
Chintadripet Assessment Circle
No.1, CT Annexe Building, Greams Road,
Chennai - 600 006. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order dated 31.10.2018 in proceedings TIN.33490581628/2010-2011 issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Respondent : Mr.M.Hariharan
Additional Government Pleader (Tax)

O R D E R

Mr.M.Hariharan, learned Additional Government Pleader (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 31.10.2018 relevant to assessment year 2010-2011.

3. The main grievance of the petitioner before this Court is that the present order of assessment passed under Tamil Nadu Value Added Tax Act, 2006, was without affording an opportunity of personal hearing, especially, when the Assessing Officer has chosen to impose penalty also.

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4. The learned Additional Government Pleader appearing for the respondent is not disputing the fact that the impugned order came to be passed without affording an opportunity of personal hearing.

5. Heard both sides.

6. It is seen that the Assessing Officer has issued a notice of proposal on 16.08.2012 and the petitioner filed their reply as early as on 20.03.2013 and 09.01.2014. However, after a period of nearly 5 years, the Assessing Officer has passed the present impugned order without affording an opportunity of personal hearing to the petitioner.

7. Needless to say that when the Assessing Officer has chosen to pass the order of assessment after a period of nearly 5 years from the date of receipt of the reply and when he has chosen to impose penalty on the petitioner as well, it is required as mandatory that the Assessing Officer should hear the petitioner in person before completing the assessment. In this case, admittedly, no such personal hearing was given. Therefore, this Court is inclined to interfere with the impugned order only on the ground that the same was passed without affording an opportunity of personal hearing to the petitioner. In other words, this Court is not expressing any view on the merits of the assessment.

8. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the Assessing Officer to redo the assessment after giving due opportunity of personal hearing to the petitioner. The whole exercise shall be done by the Assessing Officer within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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sni/mk
To
The Assistant Commissioner (ST),
Chintadripet Assessment Circle
No.1, CT Annexe Building, Greams Road,
Chennai - 600 006.
+1 CC TO GOVERNMENT PLEADER SR.NO 1136.
+1cc to Mr. Hari Radhakrishnan, Advocate SR.No. 381

W.P.No.34393 of 2018

A.SK(01/02/2019)

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