BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2019

CORAM:

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)Nos.13419 to 13421 of 2012
M.P.(MD).Nos.1,1 and 1 of 2012

M/s.Hi-Tech Arai Limited,
Represented by its Authorized Signatory R.Muthuraj
Having Corporate Office at 33, Sarojini Street,
Chinnachokkikulam, Madurai – 2.
Having Factory at
Shed No.44/1, SIDCO Industrial Estate,
Kappalur, Madurai. .. Petitioners in all petitions

Vs.

The Assistant Commissioner (CT),
Thirupparankundram Circle,
Madurai. .. Respondent in all petitions

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records in TIN Nos.33806230398/2010-2011, 33806230398/2007-2008, 33806230398/2008-2009, dated 17.09.2012 on the file of the respondent and quash the same as illegal, arbitrary and against the basic principles of natural justice and direct the respondent to give personal hearing to the petitioner.

For Petitioner : Mr.S.Karunakar

For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

COMMON ORDER

Heard Mr.S.Karunakar learned counsel for the petitioner and the learned Special Government Pleader for the respondent.

2.The sole point urged and argued by the petitioner is the violation of principles of Natural Justice. According to Mr.S.Karunakar, who has challenged orders of assessment passed under the provisions of the Tamilnadu Value Added Tax Act (in short 'Act') for the periods 2010-2011, 2007-2008, 2008-2009 all dated 17.09.2012, pre revision notices were issued on 07.08.2012/10.08.2012/31.07.2012, for the aforesaid assessment periods. Objections were filed by the petitioner/assessee on 18.09.2012/18.09.2012/19.09.2012. No acknowledgement of receipt has been produced by the petitioner to evidence receipt of the objections by the respondent / Assessing Officer. The order of assessment also proceeds on the basis that there was no reply filed by the petitioner.

3.Mr.S.Karunakar, however alleges that the objections were filed in person, but, ignored by the Assessing Officer, who has thereafter passed an order of assessment anti-dating the same to a date prior to the date when objections were received by her. Though a counter has been filed, no defence has been raised to this specific allegation. However I see no reason to dwell further on this contentious point in the light of my conclusions in the following paragraphs.

4.Admittedly, there is no opportunity of personal hearing that has been extended to the petitioner. Even in the pre-revision notice, the respondent has only called for objections without specifying the date on which the assessee is to appear and present the objections.

5.I am of the view that the principles of natural justice, that include an opportunity of hearing in person, have not been complied within the present case. In the light of the above discussion, impugned orders dated 17.09.2012 are set aside. The petitioner will appear on 23.07.2019 at 10.30 a.m. before the Assessing Officer without any further notice to be issued in this regard. After hearing the petitioner and considering all evidences that may be placed by it in support of its stand, orders of assessment *de-novo* will be passed by the Assessing Authority, within a period of four weeks from date of conclusion of personal hearing.

6.With these directions, these writ petitions are disposed of. Connected miscellaneous petitions are closed. No order as to costs.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-   )

To

The Assistant Commissioner (CT),
Thirupparankundram Circle,
Madurai.

+1 CC to M/s.SPL GP (SR-74520[F] dated 10/07/2019)

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-74600[F] dated 10/07/2019)

W.P.(MD)Nos.13419 to 13421 of 2012
09.07.2019

TM/gns
ES/24.07.2019/3P/4C