BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.06.2019
CORAM:
THE HONOURABLE DR.JUSTICE ANITA SUMANTH
W.P.[MD]No.9830 of 2019
and
W.P.[MD]No.7727 of 2019

Tvl.Maruthi Hospital,
(A unit of Anjana Medicare services Pvt. Ltd.,)
Represented by its Managing Director,
No.95, Pattabiraman Street,
Tennur, Trichy. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Woraiyur Assessment Circle,
Trichy. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in TIN 33163443746/2016-17 dated 28.03.2018 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass an assessment order afresh under the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.S.Sridhar
For Respondents : Mr.A.Thiyagarajan
Government Advocate

O R D E R

The writ petitioner seeks a Certiorarified Mandamus, quashing the order dated 28.03.2018, passed under the provisions of Tamil Nadu Value Added Tax Act, 2006 [In short 'Act'] for the period 2016-17. The short point on which the order is assailed is that the petitioner has not been afforded an opportunity of personal hearing, as mandated under the statute.

2.Heard Mr.S.Sridhar, learned Counsel appearing on behalf of petitioner and Mr.A.Thiyagarajan, learned Government Advocate, appearing on behalf of respondent.

3.Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondent points out that notice dated 26.02.2018, in conclusion, states as follows:

> *"Objections, if any, against the proposals as stated above, may be filed in writing with relevant records, before me within 15 days from the date of receipt of this notice. If you fail to file your objections, it will be construed that you have*

no objections against the proposal & orders will be passed as proposed above, without any further notice. You may also avail the opportunity of being heard in person within the above said period of 15 days."

4.He specifically draws my attention to the last line, wherein the officer has extended an opportunity of being heard in person within a period of 15 days from the date of receipt of his notice. According to him, this should be construed as sufficient compliance with the principles of natural justice. I do not agree.

5.An opportunity of personal hearing has to be fixed by date and time to be effective. The petitioner cannot be expected to visit the office of the Assistant Commissioner, at random, and expect to be heard nor can the officer be expected to be available in his seat and in a position to take up the matter at all times. The officer is expected to stipulate a specific date and time, when the assessee should appear before him and put forth its submissions. It is only in the aforesaid circumstances that an argument may be taken to the effect that an opportunity was extended but not availed of.

6.In the light of the aforesaid discussion, I am of the view that the principles of natural justice has been violated in the present case. This writ petition is allowed and the impugned order quashed. The assessing authority shall issue notice of hearing, calling upon the petitioner to appear before him on a stipulated date and time and after hearing the petitioner shall pass orders *de novo* and in accordance with law within a period of eight [8] weeks from the date of conclusion of personal hearing. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To
The Assistant Commissioner (CT),
Woraiyur Assessment Circle,
Trichy.

W.P.[MD]No.9830 of 2019
17.06.2019

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