BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.02.2019
CORAM:
THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P.(MD)No.17458 of 2016
and
W.M.P(MD) No.12650 of 2016

Tvl.Guna Motors,
rep. by its proprietor
M.S.Gunasekaran
1/76, Pankajam press Building,
Bodinayakanur. ... Petitioner

Vs

The Assistant Commissioner (CT),
Bodinayakanur. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN:33385080985/2012-13 dated 25.07.2016, quash the same and further direct the respondent to pass order afresh furnishing the copy of the MIS Report and the copies of the documents that are all relied on for revision of assessment and after verifying the books of account of the petitioner and thereafter affording an opportunity to the petitioner to file their objections.

For Petitioner : Mr.A.Chandrasekaran
For Respondent : Mr.M.Jeyakumar,
Additional Government Pleader.

ORDER

The instant writ petition has been filed challenging the assessment order dated 25.07.2016 passed by the respondent in TIN:33385080985/2012-13.

2.It is the case of the petitioner that even though the petitioner had not sent any reply to the pre-revision notices sent by the respondent, the respondent ought to have given personal hearing to the petitioner as well as afforded sufficient opportunity to the petitioner to raise all objections available to him under law before passing the impugned assessment order. It is their case that the impugned assessment order was passed solely based on the web report which is not an independent source and no personal hearing was also given to the petitioner. In such circumstances, the instant writ petition has been filed.

3.Heard Mr.A.Chandrasekaran, learned counsel appearing for the petitioner and Mr.M.Jeyakumar, learned Additional Government pleader appearing for the respondent.

4.The learned counsel appearing for the petitioner drew the attention to the Hon'ble Division Bench judgment of this Court dated 16.03.2018 passed in W.A(MD)Nos.234 to 240 of 2015, wherein the Hon'ble Division Bench has held that even if the objections were not submitted to the pre-assessment notice, the assessing officer should not deny the opportunity of personal hearing to the assessee. According to the learned counsel for the petitioner, the impugned assessment order was passed based on the web report, which is an internal document of the respondent and it is not an independent source of information. Further no personal hearing was given to the petitioner by the respondent before passing the impugned assessment order.

5.The dictum laid down by the Hon'ble Division Bench of this Court in the judgment referred to supra by the learned counsel for the petitioner is squarely applicable to the facts of the instant case. In this case also, the petitioner was not given opportunity of personal hearing and no notice for the same was sent by the respondent fixing the date of personal hearing, as seen from the impugned assessment order, which was passed based mainly on the internal web report of the respondent. The web report is not an independent source of information.

6.In the light of the above factors, the respondent has violated the principles of natural justice by not affording sufficient opportunity to the petitioner to place all objections available to him under law.

7.Accordingly, the impugned assessment order dated 25.07.2016 passed by the respondent in TIN:33385080985/2012-13 is hereby quashed and the matter is remanded back to the respondent for fresh consideration and the respondent shall pass final orders after giving sufficient opportunity to the petitioner to place all objections available to him under law including filing of written objections and also give him the right of personal hearing and the respondent is also directed to pass final orders within a period of eight weeks from the date of receipt of a copy of this order.

8.With the aforesaid directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

Sub Assistant Registrar(CS)

To

The Assistant Commissioner (CT),
Bodinayakanur.

+1 CC to M/s.A.CHANDRASEKARAN, Advocate (SR-50227[F] dated 27/02/2019)

CP

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