BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.04.2019**

CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD).No.22171 of 2016
and
W.M.P.(MD).No.15878 of 2016

Tvl Jai Narayana Paper & Board,
Represented by its Properitor Thiru.Jeyakumar,
No.2/20, Kamak Road, Sivakasi-626 189,
Viruthunagar District. ... Petitioner

-vs-

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Commercial Taxes and Registration,
Fort St.George, Chennai-600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner (C.T)-IV,
C.T.Buildings, Satchaiyaapuram,
Sivakasi, Viruthunagar District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records relating to the impugned Notice issued by the third respondent on 07-10-2016) (received by a person who is not at all connected with the affairs of the business of the petitioner but who has handed over the notice on dated 07.10.2016) to the petitioner on 15.10.2016 and quash the same and to direct the third respondent serve the summons calling for the accounts serve the show cause notice if any issued to the petitioner for the assessment years 2009-10, 2001-11, 2011-12, 2013-14, under Tamil Nadu Value Added Tax Act, call for the objections from the petitioner and to afford an opportunity of personal hearing and pass fresh order for the assessment years 2009-10, 2010-11, 2011-12, 2013-14.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The instant Writ Petition has been filed challenging the demand dated 07.10.2016 for payment of Value Added Tax to the extent of Rs.5,97,567/- for the Assessment Years 2009-10, 2010-11, 2011-12, 2013-14.

2. It is the case of the petitioner that he is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006.

3. According to the petitioner, without issuing any Pre Revision Notice or without serving a copy of the Assesment Order the revision of assessment for the years 2009-10, 2010-11, 2011-12 and 2013-14 was completed and the impugned notice of demand dated 07.10.2016, was issued by the third respondent.

4. Heard Mr.M.MD.Ibrahim Ali, learned counsel, appearing for the petitioner and Mr.D.Muruganantham, learned Additional Government Pleader appearing for the respondents.

5. This Court earlier directed the learned Additional Government Pleader to produce the file pertaining to the impugned assessment proceedings of the petitioner. As directed by this Court, the file was placed before this Court by the learned Additional Government Pleader today (23.04.2019).

6. As seen from the file, even though one person by name Ramesh Kannan has received the Pre Revision Notice on behalf of the petitioner, it is contended by the learned counsel appearing for the petitioner that Ramesh Kannan is not an authorized representative of the petitioner.

7. The learned counsel appearing for the petitioner also drew the attention of this Court to Rule 19(1)(a) of the Tamil Nadu Value Added Tax Rules, 2007 and submitted that the pre revision notice as well as the assessment order have not been duly served on the petitioner in accordance with the above said Rule.

8. As seen from Rule 19(1) (a) of the Tamil Nadu Value Added Tax Rules, 2007, any notice will have to be served on the petitioner or his Manager or Agent or the Legal Practitioner appointed to represent him or to his authorised representative.

9. In the instant case, as seen from the file produced by the respondent before this Court, it is not clear whether Ramesh Kannan, is the Manager or Agent or the Legal Practitioner appointed by the petitioner or the petitioner's authorized representative. Only his signature is found in the acknowledgement. Further, in the instant case, admittedly, no personal hearing was afforded to the petitioner in the revision of assessment proceedings initiated by the third respondent.

10. Considering all the aforesaid facts, this Court is of the considered view that principles of natural justice has been violated by the third respondent while passing the assessment orders and issuing the consequential demand and the third respondent has also not followed the procedure contemplated under Rule 19(1) a of the Tamil Nadu Value Added Tax Rules, 2007 for serving of notice.

11. For the foregoing reasons, the impugned order of demand dated 07.10.2016 passed by the third respondent against the petitioner is hereby quashed. However, the third respondent is granted liberty to issue a fresh pre revision notice to revise the assessment against the petitioner for the assessment years 2009-10, 2010-11, 2011-12 and 2013-14 by affording adequate opportunity to the petitioner to raise all objections available to him under law and also by granting him the right of personal hearing.

12. With the aforesaid direction, the Writ Petition stands allowed. No costs. Consequently, the connected W.M.P.(MD).No.15878 of 2016 stands closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

To

1.The Secretary to Government,
State of Tamil Nadu,
Department of Commercial Taxes and Registration,
Fort St.George, Chennai-600 009.

2.The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam, Chepauk,
Chennai-600 005.

3.The Assistant Commissioner (C.T)-IV,
C.T.Buildings, Satchaiyaapuram,
Sivakasi, Viruthunagar District.

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate
(SR-62092[F] dated 24/04/2019)

+1 CC to M/s.SPL GP (SR-62080[F] dated 24/04/2019)

Order made in
W.P.(MD).No.22171 of 2016
23.04.2019

ES/06.05.2019/3P/6C