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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2019

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THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P(MD).Nos.7308 to 7311 of 2016

and

WMP(MD)Nos.6159 to 6162 of 2016

In W.P(MD)No.7308 of 2016:

M/sChola Impex
Rep by its Partner
V.K.Ravichandran ...Petitioner In W.P Nos.7308, 7309 and 7310/16

M/s Sky Rocks
Rep. by its Proprietrix
Mrs.Krishnaveni ... Petitioner In W.P No. 7311 of 2016

Vs.

1.The Commercial Tax Officer,
Thanjavur 1 Assessment Circle,
Thanjavur.

2.The Appellate Deputy Commissioner,
Commercial Taxes Department,
Thanjavur. ...Respondents In all petitions

Prayer in W.P(MD) Nos.7308, 7309 and 7310: Writ Petitions are filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent herein in TIN No:33353804627/2014-15, 2012-13 and 2013-14 dated 18.01.2016 and quash the same and consequently direct the second respondent herein to afford a reasonable opportunity to the petitioner to produce the documents to substantiate the claim for exemption from Tax and conduct a personal hearing and thereafter pass appropriate orders in accordance with law.

Prayer in W.P(MD) No. 7311 of 2016 : Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records of the first respondent herein in TIN No:33533805207/2014-15, dated 18.01.2016 and quash the same and consequently direct the second respondent herein to afford a reasonable opportunity to the petitioner to produce the documents to substantiate the claim for exemption from Tax and conduct a personal hearing and thereafter pass appropriate orders in accordance with law.

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In all petitions:

For petitioners : Mr.ARL Sundaresan
Senior Counsel

For Respondents : Mr.M.Murugan
Government Advocate

C O M M O N O R D E R

These writ petitions have been filed for issuance of writ of Certiorari to quash the impugned orders passed by the first respondent in TIN No:33353804627 in respect of the periods 2014-15, 2012-13 and 2013-14 and TIN No:33533805207 in respect of the period 2014-15 dated 18.01.2016.

2. Heard the learned Senior Counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents.

3. In all the writ petitions, the first respondent had issued notice dated 23.12.2015 calling for objections to be filed within a period of 15 days from the date of receipt of the notice. No date has been fixed for personal hearing. Further more, a specific date has not been fixed even for submission of written objections. I am of the view that it is incumbent upon the authority to fix a specific date and time when the assessee could appear and advance submissions as well as file written arguments, if desired. This has not been done in the present case and the principles of natural justice thus stand violated.

4. In the light of the above, I am of the view that the petitioners should be afforded a proper opportunity to appear before the Assessing Officer and put forth their case. The impugned orders of assessment are thus set aside with the following directions:

(i) The petitioners will appear before the Assessing Officer on Thursday i.e on 11.07.2019 at 10.30 a.m. No separate notice will be issued to the petitioners as this direction is dictated in open court and will be construed as notice;

(ii) After affording sufficient opportunity of personal hearing and on receipt of objections/ materials filed by the petitioner orders of assessments will be passed *de novo* by the Assessing Authority within a period of four weeks from the conclusion of personal hearing.

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5. These writ petitions are allowed in the above terms. No

costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

To
1.The Commercial Tax Officer,
Thanjavur 1 Assessment Circle,Thanjavur.

2.The Appellate Deputy Commissioner,
Commercial Taxes Department,
Thanjavur.

+1cc to Mr.AL.GANTHIMATHI, Advocate, SR.No.72056

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and
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