BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 15.07.2019
CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.20254 to 20257 of 2014
and M.P(MD)Nos. 1, 1, 1 and 1 of 2014

In all writ petitions:

M/s.Gommateshwara Rocks,
Represented by its Authorised Signatory
N.Manjunath ... Petitioner

Vs.

The Assistant Commissioner (CT),
Tallakulam Circle,
Madurai. ... Respondent

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records on the file of the respondent in Tin No.33744883489/2009-2010, 2010-11, 2011-12 and 2012-13 dated 30.09.2014 and quash the same as illegal and contrary to the Provisions of the Act and direct the respondent to pass a assessment order afresh considering the representation dated 13.06.2014, 6.6.2014 after affording the opportunity of being heard.

In all the writ petitions:

For Petitioner : Mr.S.Karunakar

For Respondent : Mr.S.Angappan
Government Advocate

C O M M O N O R D E R

Repeatedly Officers of the Commercial Tax Department are seen to be framing orders of assessment in gross violation of the principles of natural justice.

2.The assessments impugned before me are framed in terms of the provisions of the Tamilnadu Value Added Tax Act, 2006 (in short 'Act') for the periods 2009-2010, 2010-2011, 2011-2012 and 2012-2013.

3. Pre-assessment notices dated 04.06.2019 were issued. The petitioner filed a reply dated 13.06.2014 in respect of the years 2009-2010 and 2010-2011 and 06.06.2016 in respect of the years 2011-2012 and 2012-2013.

4. The delivery book maintained by the petitioner reveals acknowledgment of receipt of the aforesaid objections by the respondent. The impugned orders however have come to be passed on 30.09.2014 wherein the Officer merely says that on receipt of the pre-assessment notice, the dealers have not filed any objections and hence he construes that they have nothing to state. I fail to understand how this statement could have been made in the light of the objections received and acknowledged by the respondent/his office.

5. The impugned orders are thus found to be in violation of the principles of natural justice and are set aside. This is not only for non-consideration of the written objections, but also since no notice has been issued for personal hearing. According to the guidelines issued by the Department, issuance of notice for personal hearing is mandatory whether requested by the assessee or not. This Court is tired of repeating the aforesaid *ad nauseam* in several orders. The officials of the Department will ensure that proceedings for assessment are framed not only in accordance with law but also in line with the Circulars of the Department setting out strict guidance for compliance with the principles of natural justice.

6. The petitioner will appear before the respondent on Monday i.e on 05.08.2019 at 10.30 a.m with all materials in support of its stand. No further notice need be issued by the authorities in this regard. The Assessing Authority shall, after hearing the petitioner and considering all materials that may be produced by it, pass orders of assessment *de novo* within a period of four weeks from date of the conclusion of the personal hearing.

7. In fine, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

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

+1cc to Mr.S.KARUNAKAR,Advocate, SR.No.75502

+1cc to the Spl.Govt.Pleader Sr.No.75413

CM
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