BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.07.2019
CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.(MD)No.11653 of 2015
and M.P.(MD)No.1 of 2015

M/s.Mahalakshmi Saw Mill,
Represented by its partner Vasanth B.Patel,
No.4/492, Thanjavur Main Road,
Opp.Balaji Nagar, Kattur P.O.,
Trichirappalli-620019. ... Petitioner

-Vs-

The Assistant Commissioner (CT)(FAC),
Thiruverumbur Assessment Circle,
Trichy-20. ... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records in TIN.No.33613561596/2013-14 dated 15.05.2015 and quash the same as illegal and contrary to the provisions of the Act and direct the respondent to pass assessment order afresh after affording an opportunity of being heard to the petitioner by considering the reply dated 11.05.2015 and pass order according to law.

For Petitioner : Mr.S.Karunakar
For Respondents : Mr.S.Angappan,
Government Advocate.

ORDER

Challenge is to the revision order, dated 15.05.2015 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') in respect of the period 2013-14.

2.Mr.S.Karunakar, learned counsel for the petitioner points out that the impugned order is passed in violation of principles of natural justice. To a show-cause notice issued by the assessing officer, a reply dated 28.04.2015 had been initially filed. Thereafter, the assessee filed a detailed objection on 11.05.2015 wherein, in conclusion, it specifically sought an opportunity of personal hearing and for production of book of accounts.

3.The issue in question relates to alleged suppression of purchases / sales. The alleged difference arose upon a comparison by the assessing officer of the purchase turnover reported by the petitioner / assessee and the BIU data entries. It also appears that the details of BIU entries have not been furnished to the assessee for its response. In any event, such exchange of data could have happened in the course of personal hearing which has been specifically sought by the assessee, but not granted by the respondent.

4.Though a final opportunity was granted for filing counter, no counter is filed till date. However, Mr.S.Angappan, learned Government Advocate appearing for the respondent fairly admits the position that no opportunity of personal hearing as sought for by the petitioner has been granted.

5.The principles of natural justice thus stand violated. In fact, even the Special Commissioner / Commissioner of Commercial Taxes has consistently impressed upon the officers of the Department that assessment should be framed only in line with the principles of natural justice, after granting of personal hearing whether sought or not.

6.In the light of the aforesaid, the impugned order is set aside. Seeing as the period relates to 2014-15 it is imperative that proceedings for assessment be completed *de novo* as expeditiously as possible. For this purpose, the petitioner shall appear before the respondent / assessing officer on 22.07.2019 at 10.30 a.m., along with all materials in support of its stand. The order of assessment, *de novo*, shall be passed as aforesaid within a period of four weeks from the date of conclusion of the personal hearing.

7.This Writ Petition is allowed in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar(CS)

To

The Assistant Commissioner (CT)(FAC),
Thiruverumbur Assessment Circle,
Trichy-20.

+1 CC to SPL GP (SR-74526[F] dated 10/07/2019)

W.P.(MD)No.11653 of 2015
09.07.2019

MK (02.08.2019) 2P 3C