BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 18.07.2019
CORAM
THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.9087 of 2015
and
M.P.(MD)Nos.1, 2 and 3 of 2015

M.Syed Mohamed ... Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,
Chennai-600 005.

2.The Deputy Commercial Tax Officer-II,
Commercial Tax Building,
Madurai Road, Near VVV College,
Virudhunagar- 626 001. .. Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the second respondent in TIN.No.33944574055/2011-12 dated 04.12.2014 and quash the same and to consequently direct the second respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr.R.Veeramanikandan
For Respondents : Mr.J.Padmavathy Devi,
Special Government Pleader

ORDER

The impugned order of assessment dated 04.12.2014 relates to the period 2011-12 and has been passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006, (in short 'Act') ex-parte.

2. There is no doubt that sufficient opportunity has been extended by the Assessing Officer to the petitioner. Three summons dated 21.04.2014, 19.05.2014 and 24.06.2014 have been issued. But, there has been no compliance. While this is so, the petitioner appears to have suffered a setback medically. Medical records have been produced and are not disputed by the respondent. The last of the medical record is dated 28.03.2015. Thus, the petitioner could well have arranged for representation in response to the summons, all three of which are dated subsequent to the medical certificate dated 28.03.2015.

3. However, Mrs.J.Padmavathy Devi, learned Special Government Pleader graciously, does not stand in the way of one more opportunity being extended to the petitioner to respond to the pre-assessment proposals. Thus, in the interests of justice the impugned order of assessment is set aside. The petitioner will appear before the Assessing Authority at **07.08.2019** at 10.30 a.m., without expecting any further notice in this regard. Proceedings of assessment shall be completed by the Officer after hearing the petitioner and considering all materials that my be furnished by him within a period of four weeks from the date of conclusion of personal hearing. It is made clear that if the petitioner / authorised representative does not appear on 07.08.2019, the respondent is at liberty to complete the proceedings on the basis of materials on record.

4. This Writ Petition is allowed in the aforesaid terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

/ True Copy /

Sub Assistant Registrar(CS-)

To

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam,
Chepauk, Chennai-600 005.

2.The Deputy Commercial Tax Officer-II,
Commercial Tax Building,Madurai Road,
Near VVV College, Virudhunagar- 626 001.

+1 CC to M/s.SPL GP (SR-76283[F] dated 19/07/2019)
+1 CC to M/s.B.ROOBAN, Advocate(SR-76092[F] dated 18/07/2019)

W.P(MD)No.9087 of 2015
18.07.2019

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