BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **30.07.2019**
CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P.(MD)No.21672 of 2016
and
W.M.P.(MD)No.15494 of 2016

ACF Retail represented by its Proprietor A.C.Fakrudeen,
No.56/3.S.F.R.M.S.Narayanan,
100 feet Road South, Near UCO Bank,
Karaikudi. ... Petitioner

/Vs./

The Commercial Tax Officer (FAC),
Karaikudi. ... Respondent

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the order of the respondent herein in TIN NO.33346287396/2014-15 dated 07.10.2016 and the consequential demand notices in for 'O' and 'RR' dated 7.10.2016 and quash the same.

For Petitioner : Mr.AL.Ganthimathi
For Respondent : Mrs.J.Padmavathy Devi
Special Government Pleader

ORDER

No personal hearing has been afforded to the petitioner in this case prior to passing of impugned order dated 07.10.2016 passed by the respondent for the period 2014-15 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [in short 'Act']. This is the short point raised and agitated before me. The petitioner has admittedly filed an objection dated 15.06.2016 which is noted by the respondent. The case of the petitioner is that the various items purchased by it have been consumed for the purposes of its own show room whereas the Department proposes to add the corresponding sales value as supprssed turnover. I may note, at this juncture that, the petitioner in its reply dated 15.06.2019, has merely raised the aforesaid argument without providing any supporting evidences such as photographs or other evidences to show self-consumption of the purchases in their own premises. At any rate, it was incumbent on the respondent to have called upon the petitioner to appear in person to explain its case. This, however, admittedly has not been done.

2. In the light the above, the impugned order is set aside and the matter is remitted to the file of the assessing officer to be redone after issuance of the notice to the petitioner, affording an opportunity of personal hearing, by way of an order of assessment *de novo*, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Commercial Tax Officer (FAC),
Karaikudi.

+1 CC to M/s.SPL GP (SR-79276[F] dated 01/08/2019)

Order made in
W.P.(MD)No.21672 of 2016
Dated:
30.07.2019

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JM/27.08.2019/2P/3C