



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 07.08.2019

CORAM

**THE HONOURABLE DR.JUSTICE ANITA SUMANTH**

**W.P (MD)No.9300 of 2016**

**and**

**W.M.P. (MD)No.7383 of 2016**

Tvl.Sahana Motors,  
Represented by its Partner G.Suresh,  
No.580/1/5, Ettayapuram Main Road,  
Kovilpatty, Tuticorin District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,  
Represented by it's Secretary to Government  
Department of Commercial Taxes and Registration,  
Fort St. George, Chennai-600 009.
- 2.The Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk,  
Chennai-600 005.
- 3.The Commercial Tax Officer -1 (FAC),  
C.T.Buildings, Ettayapuram Road,  
Kovilpatty, Tuticorin District.
- 4.The Commercial Tax Officer-III,  
C.T.Buildings, Beach Road, Tuticorin District.
- 5.The Assistant Commissioner (C.T.),  
Tamil Sangam Salai Assessment Circle,  
C.T.Buildings, Dr.Thangaraj Salai,  
Madurai-625 020.
- 6.Tvl.Elim Motors,  
D.No.16, J/11, 12 Palayamkottai Road,  
Tuticorin District.
- 7.Alagendran Auto,  
No.52, Works Shop Road,  
Madurai- 625 001.

... 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 relating to the assessment order in TIN



No.33405862988/2014-2015 dated 21.01.2016 (received by the petitioner on 05.02.2016) passed by the 3<sup>rd</sup> respondent and to direct the 3<sup>rd</sup> respondent to Revoke the issue of the Form U by the 3<sup>rd</sup> respondent on 26.04.2016 (received by the petitioner on 05.05.2016) to the banks and accord a personal hearing and furnish the copies of the Annexure II of the seller and invoice copies of the seller and proceed further to pass order for the assessment year 2014-2015.

For Petitioner : Mr.M.MD.Ibrahim Ali  
For R1 to R5 : Mrs.J.Padmavathy Devi  
Special Government Pleader  
For R7 : Mr.R.D.Ganesan  
For R6 : No Appearance

### ORDER

The petitioner challenges an order of assessment dated 21.01.2016 passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2014-2015.

2. The short point made out is the violation of principles of natural justice. A pre-assessment notice dated 14.12.2015 was issued by the officer calling for objections to the proposals contained therein within a period of fifteen days from date of receipt of the notice and also extending an opportunity of personal hearing to the petitioner to explain its stand in person. However no date has been fixed for personal hearing. The impugned order of assessment has been passed on 21.01.2016 very proximate to the date of pre-assessment notice itself.

3. The petitioner has admittedly not responded to the notice and not filed any objections. However he places on record before me medical certificates issued by Dr.C.Prabakaran, Assistant Sergeant, Government Hospital, Kovilpatti to the effect that the petitioner was unwell between 06.02.2016 and 14.05.2016 and prays for one more opportunity to plead his case before the authorities.

4. No serious objection is expressed by the learned Special Government Pleader to the request of the petitioner.

5. Thus, in the interests of justice, the impugned assessment is set aside. The petitioner will appear on **14.08.2019** at 10.30 p.m., before the officer, without any further notice to be issued to him. After hearing the petitioner as well as considering the objections put forth, an order of assessment shall be passed *denovo* within a period of four weeks from 14.08.2019. It is made clear that if the petitioner does not appear on the aforesaid date of hearing, the impugned order of assessment dated 21.01.2016 shall be reiterated by the Assessing Officer.



6. This Writ Petition is disposed of in the aforesaid terms.  
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS-II)

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Sub Assistant Registrar

To

1.The State of Tamil Nadu,  
Represented by it's Secretary to Government  
Department of Commercial Taxes and Registration,  
Fort St. George, Chennai-600 009.

2.The Commissioner of Commercial Taxes,  
2<sup>nd</sup> Floor, Ezhilagam, Chepauk,  
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3.The Commercial Tax Officer -1 (FAC),  
C.T.Buildings, Ettayapuram Road,  
Kovilpatty, Tuticorin District.

4.The Commercial Tax Officer-III,  
C.T.Buildings, Beach Road,  
Tuticorin District.

5.The Assistant Commissioner (C.T.),  
Tamil Sangam Salai Assessment Circle,  
C.T.Buildings, Dr.Thangaraj Salai,  
Madurai-625 020.

+1 CC to M/s.R.D.GANESAN, Advocate ( SR-80520[F] dated 08/08/2019 )

+1 CC to M/s.SPL GP ( SR-80735[F] dated 08/08/2019 )

+1 CC to M/s.MOHAMED IBRAHIM ALI, Advocate ( SR-80639[F] dated  
08/08/2019 )

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JM/12.09.2019/3P/9C