BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2019

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.9458 of 2016
and
W.M.P(MD)No.7514 of 2016

Tvl.Compact Spinners (India) Private Limited,
Rep. by its Managing Director,
P.Venkatachalam,
S/o.S.Pethaperumal,
Dindigul - Palani NH,
Kothapuli Village,
Reddiarchatram,
Dindigul District - 624 622. ... 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 Commercial Tax Officer,
Nilakottai Assessment Circle,
Commercial Taxes Office,
No.1-4-36, B7/1, Periyar Colony,
Madurai Road, Nilakottai,
Dindigul District - 624 208. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the second respondent in TIN No.33425301444/13-14 dated 11.04.2016 and quash the same and consequently direct the second respondent to re-do the assessment afresh after giving adequate opportunity to the petitioner.

For Petitioner : Mr.B.Rooban

For Respondents : Mrs.J.Padmavathy Devi,
Special Government Pleader.

ORDER

The impugned order has been passed without affording personal hearing to the petitioner, though the petitioner has filed objection dated 11.01.2016 that has been extracted in the impugned order of assessment. The pre-assessment proposals have been confirmed merely on the basis of that no documentary evidence has been furnished by the petitioner in support of its contention.

2.In fact, the counter at paragraph 7 states as follows:

> '7.*I humbly submit that since the petitioner has not produced any documentary evidence, the proposal made in pre-revision notice was confirmed and order was passed in TIN No.33425301444/13-14 dated 11.04.2016 by considering the amount paid by the petitioner. Since the petitioner has replied to the notice without any documentary evidence, there is no other way except resorting best of judgment order and therefore orders passes is valid under the provision of the Act and Rules.*'

3.This could perhaps have been remedied, had an opportunity of personal hearing been granted to the petitioner. Hence, the impugned order of assessment is set aside. The petitioner will appear before the Assessing Authority on 21.08.2019 at 10.30 a.m., and no further notice need be issued in this regard. After considering any materials that may be produced by it in support of its stand, an order of assessment shall be passed *de novo* by the Assessing Authority, within a period of four weeks from the date of conclusion of personal hearing.

4.This Writ Petition is disposed of in the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Crl. Side)

// True Copy //

Sub Assistant Registrar(CS)

ps

To

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

2.The Commercial Tax Officer,
Nilakottai Assessment Circle,
Commercial Taxes Office,
No.1-4-36, B7/1, Periyar Colony,
Madurai Road, Nilakottai,
Dindigul District - 624 208.

+1CC TO MR.B.ROOBAN, Advocate Sr. No.81021
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.81478

W.P(MD)No.9458 of 2016
08.08.2019

gkg(CO)
TR (20.08.2019) 3P 5C