BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)Nos.25336 of 2019

and

W.M.P(MD)No.21907 of 2019

Sri Nambiraja Medical Agencies,
TIN No.33385542026.
Represented by its Partner.E.Ganesan,
No.11, Krishnan Kovil Street,
Theneerkulam, Thachanallur,
Tirunelveli District. ... 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 State Tax Officer (ST)
Tirunelveli Junction Assessment Circle,
Commercial Tax Department,
Tirunelveli. ... Respondents

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 pertaining to the impugned proceedings of the second respondent's Assessment in TIN No.33385542026/2011-12, dated 25.09.2019 and quash the same as illegal and devoid of merits.

For Petitioner : Mr.Raja Karthikeyan
For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

<u>O R D E R</u>

The petitioner is the Registered Dealer under the Tamil nadu Value Added Tax Act, 2006. He submitted returns for the assessment year 2011-2012. After a period of seven years, a revision notice was issued to the petitioner/dealer on 07.08.2019. According to the petitioner, for the assessment year 2011-2012, the revision notice issued after period of 7 years is barred by limitation and that too on the basis of mismatch found in the records from the web portal of the respondent/department. The copies of the details of mismatch was not given to the petitioner and personal hearing was not granted.

2.Per contra, the learned Special Government Pleader for the respondent would submit that an opportunity of personal hearing was very much given to him and the petitioner has not availed that opportunity and therefore, the order does not need interference.

3.From the materials produced before this Court, it is seen that Rule 19 of Tamil Nadu Value Added Tax Rules 2006 has not been properly adhered to. Without considering the time bar, the assessment order came to be passed after a period of seven years. It is also submitted that opportunity of personal hearing was not given due to improper service. All these issues have to be addressed by the Assessing authority.

4.In view of the judgment in **JKM Graphics Solutions Vs. The Commercial Tax Officer** in W.P.No.105 of 2016, reported in **(2017) 99 VST Page.343**, the impugned order dated 25.09.2019, is set aside and the matter is remanded back to the respondent for consideration. It is open to the petitioner to raise all his objections before the respondent. The respondent shall provide opportunity of personal hearing to the petitioner before passing order.

5.This Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

das

To

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

2.The State Tax Officer (ST)
Tirunelveli Junction Assessment Circle,
Commercial Tax Department,
Tirunelveli.

+1 CC to M/s.GP (SR-102972[F] dated 02/12/2019)

+1 CC to M/s.RAJA KARTHIKEYAN, Advocate (SR-102953[F] dated 02/12/2019)

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KG(CO)
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