

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.11626 of 2015

and

M.P.No.1 of 2015 and 3360 of 2021

Bright N Power Electronics,

Represented by its Proprietor,

T.Jerald Sahayaraj, No.2, 4<sup>th</sup> street,

Vivekananda Nagar,

Puducherry - 5.

...Petitioner

Vs.

The Assistant Commercial Tax Officer -I,  
Puducherry.

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the files of the Respondent herein in his CST 34290012477/2010-11 dated 11.09.2014 quashing the same.

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.J.Kumaran

Additional Government Pleader (P)

O R D E R

The petitioner has challenged the impugned Assessment order passed by the respondent for the CST under the Central Sales Tax Act, 1956 for the Assessment Year 2010-2011. The impugned order proceeds a notice of Assessment dated 12.03.2004 to which the petitioner filed a reply dated 30.03.2015. In the reply, the petitioner submitted that Form F will be handed over in person. The respondent has passed the impugned order by stating that the petitioner has not come forward to file the Form F despite the lapses of three months.

2.The impugned order passed by the respondent is sought to be assailed in the present writ petition primarily on the ground that the notice proposed to tax at 4% whereas demanded tax at 5% by treating the transfers to the petitioner own branch office at Chennai in Tamilnadu as an inter state sales without Form C.

3.It is further submitted that the impugned order has been passed without calling upon the petitioner to come for a personal hearing and therefore the impugned order of the respondent is liable to be set aside.

4.The learned counsel for the respondent submits that the petitioner has an alternate remedy by way of an appeal before the Appellate Assistant Commissioner and therefore this Writ Petition is liable to be dismissed.

5.It is further submitted that having failed to file Form F in time, the petitioner has filed the present writ petition under Section 226 of the Constitution of India only to avoid pre deposit and to drag the proceedings.

6.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

7.From the reading of the impugned order passed by the respondent it is evident that, it has been passed in gross violation of principles of natural justice in as much as the petitioner was not called for a hearing before the impugned order was passed. The petitioner in its reply has categorically stated that the Form F would be filed in person as and when the personal hearing is held.

8.Since there is a violation of principles of natural justice, I am of the view that the impugned order passed by the respondent is liable to be quashed. On this limited ground alone, the impugned order is set aside and the case is remitted back to the respondent to pass a speaking order within a period of three months from the date of receipt of a copy of this order. The petitioner is directed to file photo copies of the Form F along with fresh representation if any, within one month from the date of receipt of this order from the respondent. If such representation is filed by the petitioner, the respondent shall call upon the petitioner for a personal hearing within a period of one month thereafter. During the personal hearing, the petitioner shall produce the original Form F before the respondent who shall after scrutinising the same, shall pass appropriate orders on merits. In case, the petitioner fails to co-operate with the respondent in the remand proceedings, the respondent shall pass appropriate orders based on the available materials.

9.This writ petition stands disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commercial Tax Officer -I,  
Puducherry.

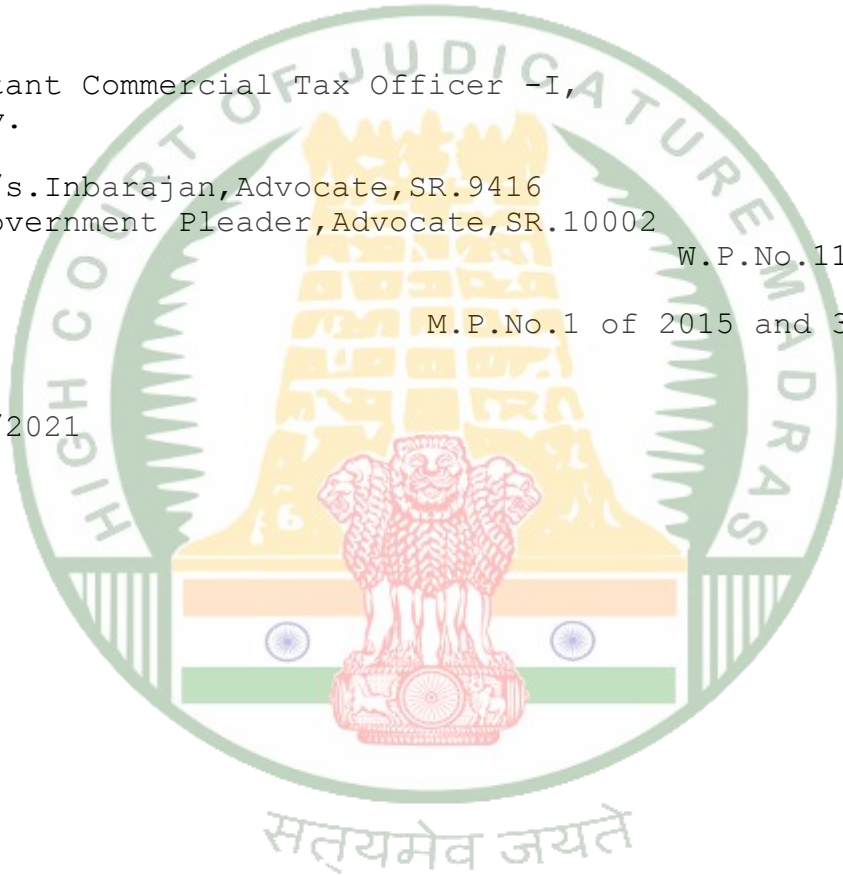
+1cc to M/s.Inbarajan,Advocate,SR.9416

+1cc to Government Pleader,Advocate,SR.10002

W.P.No.11626 of 2015  
and

M.P.No.1 of 2015 and 3360 of 2021

PMK (CO)  
baf 05/05/2021



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