BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.10475 to 10477 of 2013
and
W.M.P.(MD)Nos.1,1 &1 of 2013

Kaypee Metal Industries,
Rep. by its Proprietor,
K.Palaniappan,
5-A, Lakshmipuram 4th Street,
Madurai. ... Petitioner in all W.Ps.

-Vs-

1.The State of Tamilnadu
Rep. by its Secretary to Government,
Department of Commercial Taxes and Registration,
Fort.St.George,
Chennai-600 009.

2.The Commercial Tax Officer,
Enforcement Group-V,
Madurai.

3.The Commercial Tax Officer,
Munichalai Road Circle,
Madurai-625 020. ... Respondents in all W.Ps.

Prayer in W.P.(MD)No.10475 of 2013: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of assessment passed by the third respondent in his TIN No.33274962075/10-11, dated 15.04.2013 received by the petitioner on 19.04.2013 for the assessment year 2010-11 and quash the same and to direct the third respondent to afford an opportunity to the petitioner to file objections and an opportunity of being heard for the assessment year 2010-11.

Prayer in W.P.(MD)No.10476 of 2013: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of assessment passed by the third respondent in his TIN No.33274962075/09-10, dated 15.04.2013 received by the petitioner on 19.04.2013 for the assessment year 2009-10 and quash the same and to direct the third respondent to afford an opportunity to the petitioner to file objections and an opportunity of being heard for the assessment year 2009-10.

Prayer in W.P.(MD)No.10477 of 2013: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order of assessment passed by the third respondent in his TIN No.33274962075/08-09, dated 15.04.2013 received by the petitioner on 19.04.2013 for the assessment year 2008-09 and quash the same and to direct the third respondent to afford an opportunity to the petitioner to file objections and an opportunity of being heard for the assessment year 2008-09.

For Petitioner (in all Wps) : Mr.K.Vadivelu for Mr.A.S.Mujibur Rahman

For Respondents (in all W.Ps.) : Mr.G.Arjunan Government Advocate

COMMON ORDER

Heard the learned counsel on either side.

2.Kaypee Metal Industries is the petitioner in these three writ petitions which pertain to the assessment years 2008-09, 2009-10 & 2010-11. The petitioner's assessments for the aforesaid years were sought to be reopened. The respondent issued pre-revision notices dated 06.11.2012. The petitioner offered his objections and sought time. However, without granting an opportunity of personal hearing, the impugned orders came to be passed. They are questioned in these writ petitions.

3.I went through the contents of the impugned orders. It is obvious therefrom that personal hearing was not given to the petitioner. In fact, the prayer in these writ petitions is for remanding the matter and affording an opportunity of personal hearing. Though this pleading has not been specifically taken in the affidavit, the learned counsel raised this point as a first ground. I find merit in the said contention.

4.In G.V.Cotton Mills case, it has been held that grant of personal hearing is mandatory even if reply is not filed. Since this opportunity of personal hearing was not given to the petitioner, the orders impugned in the writ petitions are quashed. The matter is remitted to the file of the assessing authority to pass orders afresh in accordance with law. These Writ Petitions are allowed. The petitioner had remitted 25% of the tax, since it was a condition while granting interim order. The said amount will be adjusted based on the orders to be passed after remand. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Secretary to Government,State of Tamilnadu
Department of Commercial Taxes and Registration,
Fort.St.George,
Chennai-600 009.

2.The Commercial Tax Officer,
Enforcement Group-V,
Madurai.

3.The Commercial Tax Officer,
Munichalai Road Circle,
Madurai-625 020.

+3 CC to Mr.A.S.MUJIBUR RAHMAN, Advocate (SR-8270[F] dated 02/03/2021)

+1 CC to SPL GP (SR-8415[F] dated 03/03/2021)

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