BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.3457 and 3461 of 2021
and
W.M.P.(MD)Nos.2802, 2803, 2805 and 2806 of 2021

Tvl. K.K. Automobiles,
Represented by its Proprietor,
K.Balasubramanian ... Petitioner in both W.Ps

Vs.

1.The Appellate Deputy Commissioner (ST),
Commercial Taxes Buildings,
Reserve Line, Palayamkottai,
Tirunelveli.

2.The State Tax Officer,
Commercial Taxes Building,
Tiruchendur. ... Respondents in both W.Ps

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned proceedings passed by the 2nd respondent in TIN No.33655902022/2013-2014 and 2012-2013 dated 14.10.2017 and quash the same as the same is illegal and passed by grossly violating the principles of natural justice.

(In both W.Ps)
For Petitioner : Mr.A.Satheesh Murugan.A
For Mr.K.Srinivasan.

For Respondents : Mr.G.Ajunan,
Government Advocate.

COMMON ORDER

Heard the learned counsel on either side.

2.Tvl.K.K.Auto Mobiles is the petitioner in both the writ petitions. The assessment years are 2012-13 and 2013-14. The impugned orders were passed way back on 14.10.2017 but the writ petitions were filed only in February 2021.

3.The learned counsel for the petitioner on instructions submitted that the petitioner is ready to pay a sum of Rs.10,000/- towards tax without admitting his liability for each of the assessment years in question. This is undertaking to pay a sum of Rs.20,000/- in all within a period of three weeks from the date of receipt of a copy of this order is recorded.

4.The learned counsel for the petitioner would point out that the impugned orders were not at all served on the petitioner and that only by invoking Right to Information Act, they were able to get copies of the impugned orders. The stand of the respondents is that the impugned orders were sent through ordinary post. When the statutory rule requires that the communication should be sent to the address of the dealer by a registered post, the version that the impugned orders were sent by ordinary post cannot be accepted.

5.The petitioner had also taken a stand that no personal hearing was given. This contention raised in paragraph 12 of the affidavit as well as in ground 6 has not been controverted in the counter affidavit. Therefore, on the ground of violation of principles of natural justice, namely non affording of personal hearing to the petitioner, the orders impugned in the writ petitions are quashed. The writ petitions are allowed. The matters are remitted to the file of the second respondent to pass orders afresh in accordance with law. The petitioner shall remit a sum of Rs.20,000/- in all covering the demand set out in both the writ petitions within a period of three weeks from the date of receipt of a copy of this order. The petitioner is given four weeks time to offer his explanation. If the second respondent is not satisfied by the explanation to be offered by the petitioner, then personal hearing notice will be sent to the petitioner and thereafter orders afresh will be passed in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// 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 Appellate Deputy Commissioner (ST),
Commercial Taxes Buildings,
Re-serve Line, Palayamkottai,
Tirunelveli.

2.The State Tax Officer,
Commercial Taxes Building,
Tiruchendur.

+1 CC to Mr.K.SRINIVASAN, Advocate (SR-8264[F] dated 02/03/2021)

Order made in
W.P(MD)Nos.3457 and 3461 of 2021 and
W.M.P.(MD)Nos.2802,2803,2805&2806 of 2021
02.03.2021

DKS(CO)
SRS (23/03/2021) 3P : 4C