BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 31.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.7286, 7289 & 7292 of 2021
and
W.M.P.(MD)Nos.5553, 5554, 5545, 5546, 5549 & 5561 of 2021

Tvl.Mekala Timber & Hardwares,
Rep. by its Proprietrix K.Mekala,
No.5/142, Elluvilai, Rajakkamangalam Post,
Kanyakumari District. ... Petitioner in all W.Ps.

-Vs-

The State Tax Officer (Inspection Cell),
Tirunelveli,
Tirunelveli Division. ... Respondent in all W.Ps.

Common Prayer in W.P.(MD)No.7286, 7289 and 7292 of 2021: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent herein in Ref.No.ZD331120002514C (Order No.33AODPM4392]1ZS17-18, Ref.No. ZD3311200025168, (Order No.33AODPM4392 (1ZS18-19), Ref.No. ZD3311200025184 (Order No.33AODPM4392(1ZS19-20) dated 20.11.2020 for the financial years 2017-18,2018-2019 and 2019-2020 respectively and quash the same as illegal, invalid and violative of the principles of natural justice and further direct the respondent to issue demand notice, show cause notice, DRC proceedings, detailed inspection of the petitioner's documents and more fully thereafter giving an opportunity to the petitioner to file their objections and thereafter affording a personal hearing to the petitioner to putforth their case.

For Petitioner : Mr.M.Natarajan
For Respondents : Mrs.J.Padmavathi Devi
(in all W.Ps.) Special Government Pleader

COMMON ORDER

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent. With the consent of learned counsel on either side, the Writ Petition is taken up for final disposal at the admission stage itself.

2.M/s.Mekala Timber and Hardwares is the petitioner in these writ petitions. The assessment years relate to 2017-18, 2018-19 and 2019-2020. The impugned orders of assessment are challenged primarily on the ground that the petitioner was not afforded with any opportunity of personal hearing as contemplated under Section 75 (4) and 75(5) of GST Act. This ground has been specifically taken in the affidavits filed in support of these writ petitions.

3.I wanted to know from the learned Special Government Pleader as to whether any personal hearing notice was specifically sent by the assessing authority to the petitioner. It is stated that since the whereabout of the petitioner were not known, no such personal hearing notice was sent. I am not able to accept the said explanation. Obviously, the petitioner did have an address. Even if the pre-revision notice was returned, still the duty is cast on the assessing officer to send a personal hearing notice in the mode contemplated under the statute. The assessing authority cannot assume that the assessee will not receive the personal hearing notice also.

4.On the ground of violation of principles of natural justice, this Court sets aside the orders impugned in the writ petitions. However, I must take note of the contention of the learned Special Government Pleader that the petitioner is adopting a hide and seek approach. The petitioner's counsel gives an undertaking that the assessee will go to the office of the respondent on 09.04.2021 at 11.00 a.m. and give his address for service for all future communications. On the said date, it is open to the respondent to intimate the next hearing date also. Of-course, the respondent will give opportunity to the petitioner to file his objections. A copy of the pre-revision notice may also be served on the petitioner, so that, he can furnish his objections.

5.These Writ Petitions are allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmi

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

The State Tax Officer (Inspection Cell),
Tirunelveli,
Tirunelveli Division.

+3 CC to M/s.M.NATARAJAN, Advocate (SR-14715[F] dated 31/03/2021)

+1 CC to M/s.SPL GP (SR-15016[F] dated 01/04/2021)

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