BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10783 of 2019
and
W.M.P.(MD)No.8230 of 2019

M/s.Esskay Enterprises,
Represented by its Authorised Signatory,
S.Nafeez Khader Ibrahim ... Petitioner

Vs.

The State Tax Officer,
Thiruverumbur Assessment Circle,
Multi-stored Building,
Kajamalai, Trichy - 620 020. ... Respondent

Prayer : Writ Petition 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 order dated 29.03.2019 in proceedings TIN No.33073560244/2017-18, issued by the respondent and quash the same.

For Petitioner : Mr.G.Derrick Sam
For Mr.Hari Radhakrishnan

For Respondent : Mr.G.Arjunan,
Government Advocate.

ORDER

Heard the learned counsel on either side.

2.The petitioner is a dealer registered with the respondent. The petitioner is a running petroleum retail outlet. The Enforcement Wing Officials inspected the petitioner's premises on 30.05.2017 and 31.05.2017. That triggered the reopening of concluded assessment. The case on hand pertains to the assessment year 2017-18. The learned counsel for the petitioner raised two grounds. The first ground is that the though personal hearing was afforded to him, the order impugned in the writ petition was passed by some other officer. In other words, the officer, who heard the petitioner did not pass the impugned order. This is clearly violative of Circular No.32/15 dated 17.08.2015. Paragraph No.5 of the said Circular states that the officer who issues notice and the officer who confirms such notice shall not be a different person. In other words, the pre-assessment notice issued by the predecessor shall not be confirmed by the succeeding officer without issuing a fresh notice by him. The same principle will apply, where there is a change of official after the grant of personal hearing also. This ground is good enough to quash the impugned order. That apart, the learned counsel for the petitioner also would state that the impugned order came to be passed by the officer, who conducted the surprise inspection. Nothing can be more violative of the principles of natural justice but this point has not been taken in the affidavit and therefore, I refrain from considering the said contention. The order impugned in the writ petition is quashed. The writ petition is allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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,
Thiruverumbur Assessment Circle,
Multi-stored Building,
Kajamalai, Trichy - 620 020.

+1 CC to THE SPECIAL GOVERNMENT PLEADER (SR-8134[F] dated 02/03/2021)

W.P(MD)No.10783 of 2019
01.03.2021

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