



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.13093 of 2019

and

W.M.P. (MD)No.9770 of 2019

WEB COPY

M/s.Tamil Traders,
Rep. by its Proprietor Mr.K.A.Natarajan,
No.5,5/170-15, Covai Road,
Karur-639 002.

... Petitioner

-Vs-

1.The Appellate Deputy Commissioner (ST)
Commercial Taxes Building,
Trichy.

2.The Assistant Commissioner (ST)
Karur (West) Assessment Circle,
Karur.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the second respondent in TIN No.33713786511/2016-17 and quash the order dated 19.07.2018 as it is unlawful and contrary to the principles of natural justice.

For Petitioner	: M.A.Satheesh Murugan
For Respondents	: Mr.S.Dhayalan
	Government Advocate

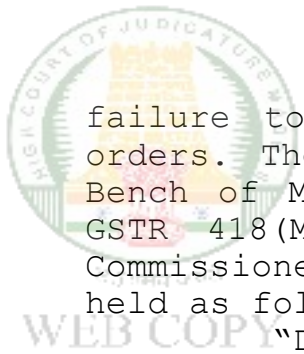
ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

2.The petitioner is a dealer registered with the second respondent. The case on hand pertains to the assessment year 2016-17. The petitioner's business premises were inspected by the Enforcement Wing. Based on the same, pre-revision notice was issued on 21.06.2017. The petitioner gave his reply dated 03.08.2017 seeking dropping of proceedings. Thereafter, the impugned order dated 19.07.2018 came to be passed. The same is assailed in this writ petition.

3.The respondents have filed a detailed counter affidavit and the learned Government Advocate took me through the same.

4.Though the learned Government Advocate would call upon this Court to confirm the order impugned in the writ petition, as rightly pointed out by the learned counsel appearing for the petitioner,



failure to give an opportunity of hearing vitiates the impugned orders. The issue is no longer *res integra*. The Hon'ble Division Bench of Madras High Court in the decision reported in [2019] 60 GSTR 418(Mad) (G.V.Cotton Mills (P) Ltd., V. The Assistant Commissioner(CT), Avarayampalayam Assessment Circle, Coimbatore) held as follows:-

"Denial of personal hearing:

10. The respondent denied the appellant opportunity of hearing only on the ground that objection was not given to the pre-assessment notices. Even if objection was not given, still the assessing authority was expected to post the matter for hearing by issuing notice to the assessee. In case the assessee fail to appear, it is open to the assessment authority to pass orders on merits. We make the position clear that the failure to submit objection to the pre assessment notice would not give a right to the assessment officer to deny opportunity of personal hearing to the assessee.

11. The Supreme Court in Swami Devi Dayal Hospital and Dental College v. Union of India MANU/SC/0873/2013 : [2013] 10 Scale 608 observed that even in the absence of a specific provision of giving hearing, the hearing is required in such cases, unless specifically excluded by a statutory provision."

- 5.The impugned order is liable to be quashed for two reasons.
(a) the non speaking nature of the order
(b) personal hearing was not afforded.

6. The aforesaid ratio clearly applies to the case on hand. In this view of the matter, the order impugned in the writ petition is quashed. The writ petition is allowed. The matter is remitted to the file of the second respondent. The second respondent will issue a personal hearing notice and pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// 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

1.The Appellate Deputy Commissioner (ST)
Commercial Taxes Building,
Trichy.

2.The Assistant Commissioner (ST)
Karur (West) Assessment Circle,
Karur.

+1 CC to M/s.SPL GP (SR-6165[F] dated 19/02/2021)

+1 CC to M/s.K.SRINIVASAN, Advocate (SR-6065[F] dated 19/02/2021)

W.P. (MD) No.13093 of 2019
18/02/2020

ES (CO)

KB (03.03.2021) 3P 5C