BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.02.2021

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)No.15966 of 2019
and
W.M.P.(MD)No.12673 of 2019

S.S.M.Traders,
represented by its Proprietor,
S.Sudalai Muthu : Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT),
Tirunelveli.

2.The Appellate Deputy Commissioner (ST),
Commercial Taxes Building, Tirunelveli.

3.The Assistant Commissioner (ST),
Palayamkottai Assessment Circle,
Palayamkottai, Tirunelveli. : Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to to call for the records pertaining to the impugned proceeding passed by the third respondent in TIN No.33595563881/2012-13, dated 15.02.2019 and quash the same as illegal and consequently, to direct the third respondent to redo the assessment by following the principles of natural justice and after providing an opportunity of personal hearing to the petitioner.

For Petitioner :Mr.M.S.Jeyakarthik
For Respondents :Mrs.J.Padmavathi Devi
Special Government Pleader

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ORDER

Heard the learned Counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

2.The petitioner is an assessee registered with the third respondent. The subject matter pertains to the assessment year 2012-13. The petitioner's assessment was finalised under Section 22 of the Act. The third respondent sought to reopen the same and issued pre-revision notice, dated 26.09.2018. It appears that the petitioner did not offer any reply. Thereafter, the impugned order came to be passed levying tax and penalty on the petitioner. Challenging the same, the Writ Petition came to be filed.

3.The learned Counsel for the petitioner points out that the case of the respondents rests on the discrepancies noticed from a verification of the departmental website. It has been held in ***M/s.JKM Graphics Solutions Private Limited, Chennai vs The Commercial Tax Officer, Vepery Assessment Circle, Chennai***, reported in ***2017 SCC Online Mad 669 : (2017) 99 VST 343*** (as reviewed) that in that event, the assessment authority is bound to hold an enquiry with the other end of the dealer. In the case on hand, such procedure was not adopted.

4.Therefore, On this sole ground, the order impugned in this Writ Petition is quashed and the matter is remitted to the file of the third respondent. The third respondent shall pass fresh orders by following the procedure indicated in M/s.JKM Graphics Solutions Private Limited case (as reviewed).

5.The Writ Petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

cmr

To

1.The Appellate Deputy Commissioner (CT),
Tirunelveli.

2.The Appellate Deputy Commissioner (ST),
Commercial Taxes Building, Tirunelveli.

3.The Assistant Commissioner (ST),
Palayamkottai Assessment Circle,
Palayamkottai, Tirunelveli.

+1 CC to M/s.SPL GP (SR-6659[F] dated 23/02/2021)

W.P.(MD)No.15966 of 2019
22.02.2021

MJ(CO)
KK(09.03.2021) 2P 5C