BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.02.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
WP(MD)No.17140 of 2019
and
WMP(MD)No.13661 of 2019

Tvl.P.S.Baharudeen ...Petitioner

Vs.

1.The Commissioner of
Commercial Taxes,
O/o.The Principal and Special
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Assistant Commissioner (ST)-III,
Dindigul-III Assessment Circle,
Commercial Taxes Office,
Sub-Collector Office Road,
Dindigul-624 001. ... Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN.33855240049/2014-15 ante-dated as 31.05.2019 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.S.Dayalan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The order impugned in the writ petition is liable to be quashed for more one reason. The second respondent in the pre-revision notice itself, has mentioned the date of personal hearing. It has been held that only if the authority is not satisfied with the explanation, the question of affording personal hearing will arise. If the authority incorporates the personal hearing date in the pre-revision notice itself, it only mentions that the authority already pre-determined the issue. The petitioner has made a request for adjournment vide letter dated 30.05.2019. It was sent by a registered post on that date itself. The postal receipt has also been enclosed. However, the impugned order was despatched to the petitioner only on 03.07.2019. The learned counsel for the petitioner would allege that the impugned order was back dated. I am of the view that this controversy need not be gone into.

3.Since I have held that the impugned proceedings are vitiated for having fixed the personal hearing date in the pre-revision notice itself, the matter is remitted to the file of the second respondent to pass orders afresh in accordance with law. The petitioner is given three weeks time from the date of receipt of copy of this order to offer his explanation. Thereafter, if the second respondent is not satisfied with the same, he will fix the date for personal hearing and pass orders thereon.

4.The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// 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 Commissioner of
Commercial Taxes,
O/o.The Principal and Special
Commissioner of Commercial Taxes,
Ezhilagam, Chepauk, Chennai-600 005.

2.The Assistant Commissioner (ST)-III,
Dindigul-III Assessment Circle,
Commercial Taxes Office,
Sub-Collector Office Road,
Dindigul-624 001.

+1 CC to M/s.SPL GP (SR-5900[F] dated 18/02/2021)

+1 CC to M/s.B.ROOBAN, Advocate (SR-6049[F] dated 19/02/2021)

WP(MD)No.17140 of 2019
and
WMP(MD)No.13661 of 2019
17.02.2021

MJ(CO)
KB(25.05.2021) 3P 5C