BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.11509 and 11510 of 2018
and
W.M.P.(MD)Nos.10484 and 10485 of 2018

TVL.R.J.Industries,
Rep. by its Proprietrix,
Selva Jothi ... Petitioner in both W.Ps

Vs.

The Commercial Tax Officer (Addl.) (ST),
Tuticorin - III Assessment Circle,
Tuticorin 628 001. ... Respondent in both W.Ps

Common Prayer : Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings passed by the respondent in TNVAT/33295924401/2012-13 and 2013-14 dated 19.03.2018 and quash the same as the same is illegal and passed by grossly violating the principles of natural justice and direct the respondent to redo the assessment after considering the objections along with material records filed by the petitioner independently without influencing the proposal sent by the Enforcement Wing Officials in view of the judicial precedents reported in 146 STC 642 in the case of Madras Granites (P) Ltd. Vs. Commercial Tax Officer & another and 9 VST 478 in the case of Amutha Metals Vs. Commercial Tax Officer, Mannaday (East) Assessment Circle, Chennai and also to provide petitioner an opportunity of personal hearing before passing of the order as per the guidelines given by the Honourable Division Bench of this Court reported in 33 VST 333 in the case of M/s.SRC Projects Private Ltd., Rep. by its Chief Executive Officer, Salem Vs. The Commissioner of Commercial Taxes, Ezhilagam, Chepauk, Chennai and another.
(In both W.Ps)

For Petitioner : Mr.A.Satheesh Murugan
For Mr.K.Srinivasan

For Respondent : Mrs.J.Padmavathi Devi,
Special Government Pleader.

COMMON ORDER

Heard the learned counsel on either side.

2.The orders impugned in these writ petitions are liable to be quashed for the reason that the officer, who passed the impugned orders did not hear the petitioner in person. In other words, the officer who issued and heard the personal hearing notice was one officer while the officer, who passed the final orders was a different one. The Commissioner of Commercial Taxes has issued a circular that the officer, who passes the final order should be the very same officer, who issues the pre-revision notice also. The very same principle can be applied to the case on hand also. On the ground that the authority, who passed the impugned order did not grant personal hearing to the petitioner, the impugned orders are quashed. The writ petitions are allowed. The matters are remitted to the file of assessing officer to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Commercial Tax Officer (Addl.) (ST),
Tuticorin - III Assessment Circle,
Tuticorin 628 001.

+1 CC to M/s.SPL GP (SR-9187[F] dated 05/03/2021)
+1 CC to M/s.K.SRINIVASAN, Advocate (SR-9045[F] dated 05/03/2021)

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VB (30/04/2021) 2P / 4C