BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 30.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)Nos.21574 & 21575 of 2018
and W.M.P.(MD)Nos.19472 & 19473 of 2018

Tvl.AARYA PRINTER,
Represented by its Proprietor
K.R.Balakrishnan, aged about 46 years,
S/o.K.R.Ravindran,No.4, B.B.Road,
Balarengapuram,
Madurai-625 009. ... Petitioner in both W.Ps.

-Vs-

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

2.The State Tax Officer,
Kamarajar Salai Circle, Commercial Taxes Complex,
Dr.Thangaraj Salai,
Madurai-625 020. ... Respondents in both W.Ps.

Prayer in W.P.(MD)No.21574 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned proceedings of the second respondent in TIN No.33494822565/2010-11, dated 31.05.2018 and quash the same.

Prayer in W.P.(MD)No.21575 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the impugned proceedings of the second respondent in TIN: 33494822565/2011-12, dated 31.05.2018 and quash the same.

For Petitioner	:	Mr.B.Rooban for Mr.Raja Karthikeyan
For Respondents (in both W.Ps.)	:	Mrs.J.Padmavathi Devi Special Government Pleader

COMMON ORDER

Heard the learned counsel on either side.

2.The orders impugned in the writ petitions are liable to be quashed because personal hearing was not afforded to the assessee. In the impugned orders, it is mentioned that pre-revision notices were issued to the assessee and that, no reply was received.

3.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:
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> 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.
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> 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."

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

5.It is seen that the issue on hand involves inter-state sales made without C-Form declaration. Therefore, when the assessing officer passes order pursuant to this remand, the decision rendered in *Tvl.Bharath Traders case* will be borne in mind.

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

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

2.The State Tax Officer,
Madurai Rural South Circle,
Commercial Taxes Complex,
Dr.Thangaraj Salai,
Madurai-625 020.

+1 CC to M/s.B.ROOBAN, Advocate (SR-14673[F] dated 31/03/2021)

W.P.(MD)Nos.21574 & 21575 of 2018
and
W.M.P.(MD)Nos.3799 & 3825 of 2021
30.03.2021

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