BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.13135 of 2015 and
M.P.(MD)No.1 of 2015

M/s.Sri Jeya Muruga Paper Mart,
Rep. by its Partner,
N.Chitharanjan,
No.11-F/19, Kamak Road,
Sivakasi, Virudhunagar District. ... Petitioner

Vs.

1. The Commercial Tax Officer-(E), Gr-2,
Tuticorin.

2. The Assistant Commissioner, CT-3,
Commercial Tax Department,
Sivakasi. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Assessment order dated 30.06.2015 passed by the second respondent in his TIN No.33416001935/2014-15 and received by the petitioner on 08.07.2015 and quash the same and to direct the second respondent to afford the reasonable opportunity of being heard under Section 22(4) of Tamil Nadu Value Added Tax Act 2006 and pass fresh order of assessment for the assessment year 2014-15.

For Petitioner	:	Mr.K.Vadivelu, for Mr.A.S.Mujibur Rahman.
For Respondents	:	Mr.G.Arjunan, Government Advocate.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is an assessee registered with the second respondent.

3. The case on hand pertains to the assessment year 2014-15. The petitioner's returns were finalised on deemed assessment basis under Section 22 of the Tamil Nadu Value Added Tax Act, 2006. While so, a surprise inspection was conducted in the petitioner's place of business by the enforcement wing on 14.05.2014. Certain defects were noticed. Based on the same, pre-assessment notice was issued on 03.06.2015. The petitioner could not respond to the same

immediately. He only sought further time to lodge his objections. The petitioner's allegation is that without accepting the petitioner's legitimate request, the impugned order came to be passed whereby the proposals set out in the show cause notice were confirmed.

4. The respondents have filed counter affidavit and the learned Government Advocate took me through the contents set out therein. The learned Government Advocate submitted that the writ petition has to be dismissed because the petitioner has failed to avail an alternative remedy of appeal.

5. I carefully considered the rival contentions and went through the materials on record.

6. The order impugned in this writ petition is liable to be quashed because without affording an opportunity of personal hearing, the impugned order came to be passed. In the counter affidavit, the same has not been controverted. In the impugned order also, it is nowhere mentioned that personal hearing notice was issued to the petitioner. Therefore, on this sole ground, the order impugned in this writ petition is quashed. This writ petition stands allowed. The matter is remitted to the file of the second respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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 Commercial Tax Officer-(E), Gr-2,
   Tuticorin.

2. The Assistant Commissioner, CT-3,
   Commercial Tax Department,
   Sivakasi.

+1 CC to M/s.A.S.MUJIBUR RAHMAN, Advocate (SR-11662[F] dated 17/03/2021)

+1 CC to M/s.SPL GP (SR-11960[F] dated 17/03/2021)

W.P.(MD)No.13135 of 2015
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