BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.4717 of 2017 and
W.M.P.(MD)No.3771 of 2017

R.M.Karuppaiah,
Works Contract,
No.344, Virachilai Sivan Kovil Street,
Virachilai, Thirumayam Taluk,
Pudukkotti District. ... Petitioner

Vs.

The Commercial Tax Officer-Main,
Pudukkottai-II Assessment Circle,
CT Buildings, Pudukkottai. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent in TIN No.33054121691/2013-2014 dated 10.01.2017 and quash the same as illegal, arbitrary against the provisions of the Act and also against the principles of natural justice.

For Petitioner : Mr.K.Soundararajan
For Respondent : Mr.G.Arjunan,
Government Advocate.

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the respondent. The petitioner received pre-revision notice dated 25.10.2016. The petitioner handed over his objections in person. In page No.4 of the typed set of papers, I find that the acknowledgement issued by the departmental official. In the impugned order, there is no reference to the petitioner's objections. That apart, no personal hearing was given to the petitioner. 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:
>
> 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.

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."

3. The aforesaid ratio clearly applies to the case on hand. In this view of the matter, the order impugned in this writ petition is quashed. This writ petition is allowed. The matter is remitted to the file of the respondent. The petitioner is given three weeks time from the date of receipt of a copy of this order to offer his explanation/objection. Thereafter, the respondent will issue a personal hearing notice and pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (w)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PMU

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-Main,
Pudukkottai-II Assessment Circle,
CT Buildings, Pudukkottai.

+1 CC to SPL GP (SR-9176[F] dated 05/03/2021)

+1 CC to Mr.K.SOUNDARARAJAN, Advocate (SR-9304[F] dated 05/03/2021)

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KM (09.04.2021) 3P 4C