WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5522 of 2017

and

W.M.P.(MD)No.4404 of 2017

M/s.Kissan Electricals,
Represented by its Proprietor S.Deivarajan,
No.114/21, Pattukottai Road,
Aranthangi-614616. ... Petitioner

-Vs-

The Commercial Tax Officer,
Aranthangi Assessment Circle,
Commercial Tax Building,
Aranthangi. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in TIN 33564141635/2014-15, dated 31.01.2017 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass assessment order afresh affording a opportunity of being heard to the petitioner by considering the reply dated 12.02.2016 within a such time as may be directed by this Court.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.G.Arjunan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The case on hand pertains to the assessment year 2014-15. The petitioner's place of business was inspected by the Enforcement Wing Officers on 17.06.2015 and thereupon, the pre- revision notice dated 28.09.2015 came to be issued. The petitioner submitted his reply on 29.10.2015 and also on 12.02.2016. Rejecting the petitioner's objections, the impugned order came to be passed. The same is assailed in the writ petition.

3.The respondent has filed a counter opposing the writ prayer. The primary contention taken in the counter affidavit is that the petitioner should avail the appellate remedy and not rushed to this Court in the very first instance.

4.I carefully considered the rival contentions and went through the materials on record. The impugned order is vulnerable on two counts.

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(a) personal hearing was not afforded to the petitioner. The grant of personal hearing has been held to be a mandatory requirement in G.V.Cotton Mills case.

(b) the case of the respondent rests on mismatch. The discrepancies were noticed based on the verification of the purchase details from the other end dealers through intranet. In such an event, the procedure laid down in J.K.M.Graphic Solutions Private Limited case should be followed. In the case on hand, that was not followed.

5.Therefore, on these twin grounds, the order impugned in the writ petition is quashed. The Writ Petition is allowed. The matter is remitted to the file of the respondent to pass orders afresh in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// 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

The Commercial Tax Officer,
Aranthangi Assessment Circle,
Commercial Tax Building,
Aranthangi.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-8120[F] dated 02/03/2021)

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SVN(CO)
KB(15.03.2021) 2P 3C

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