



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P.(MD)No.9456 of 2016 and

W.M.P.(MD)No.7512 of 2016

M/s.Jayaraj Karz,
Rep. by its Partner P.Jeyasuresh Jayaraj,
T.S.No.152/2, Trichy-Madurai National Highways,
Panjappur,
Trichy - 620 012.

... Petitioner

Vs.

The Assistant Commissioner(CT),
Srirangam Assessment Circle,
Trichy.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN No.33333463198/2012-13 dated 28.04.2016 and quash the same as it is unlawful and further direct the respondent to re-consider the objections in all perspective on its merits in accordance with law and then pass appropriate orders in accordance with law.

For Petitioner	: Mr.R.D.Ganesan
For Respondent	: Mr.G.Arjunan, Government Advocate.

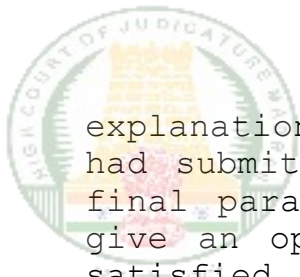
O R D E R

Heard the learned counsel on either side.

2. The petitioner is a dealer registered with the respondent. The case on hand pertains to the assessment year 2012-2013. The petitioner has received pre-revision notice dated 12.01.2016 alleging the suppression of sale turnover. The petitioner offered his explanation on 08.02.2016 and on 22.02.2016. Rejecting the stand taken by the writ petitioner, the impugned order dated 28.04.2016 came to be passed. That is assailed in this writ petition.

3. Though the petitioner raised very many grounds in the affidavit filed in support of this writ petition and the same was also reiterated by the learned counsel, the writ petition can be disposed of on a short ground.

4. It is true that in the pre-revision notice itself, the authority called upon the petitioner to appear for personal hearing. But then, such a composite order could not have been passed. The pre-revision notice must call upon the assessee to offer his explanation and if the authority is not satisfied with the



explanation, personal hearing must be granted. The petitioner herein had submitted his replies on 08.02.2016 and 22.02.2016 and in the final paragraph, it is specifically prayed that the authority may give an opportunity of personal hearing, if the authority is not satisfied with the petitioner's explanation. The grievance of the petitioner is that after receiving their explanation and objection, the authority did not give any personal hearing. This is clearly an infraction of procedure.

5. Therefore, on this sole ground, the order impugned in this writ petition stands quashed. This writ petition is allowed.

6. The assessing officer is present through Video Conference. The assessing officer would state that she is ready to give personal hearing on 18.03.2021 at 02.30 p.m. in her office.

7. I make it clear that the petitioner will not wait for issuance of any notice and the petitioner's authorised representative will be present before the respondent on the said day. The petitioner will not raise the contention that the officer who issued pre-revision notice is one officer and the officer who passed the impugned order is different. The petitioner's counsel on instructions states that the petitioner will not press that point, even if the adjudication order goes against him.

8. The petitioner is directed to appear before the respondent on 18.03.2021 on 02.30 p.m. and the petitioner will place all the relevant materials. The petitioner is of course at liberty to file additional objections also. Thereafter, the respondent shall pass orders afresh and in accordance with law. The period, between 23.05.2016 and 02.03.2021 will be excluded for computing limitation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

// 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 Assistant Commissioner(CT),
Srirangam Assessment Circle,
Trichy.



+1 CC to M/s.R.D.GANESAN, Advocate (SR-8263[F] dated 02/03/2021)

+1 CC to M/s.SPL GP (SR-8413[F] dated 03/03/2021)

W.P. (MD)No.9456 of 2016
02.03.2021

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SSS (CO)

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