BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.03.2021
CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P(MD)No.11323 of 2017
and
W.M.P.(MD)No.8697 of 2017

M/s.Sri Amman Timbers,
Rep. by its Proprietor,
P.Dharmarajan. ... Petitioner

Vs.

The Commercial Tax Officer,
Papanasam Assessment Circle,
Papanasam,
Thanjavur District - 614 210. ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for records of the respondent in TIN No.33683841451/2011-12 dated 04.05.2017 and quash the same as illegal, arbitrary and against the provisions of the Act.

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

ORDER

Heard the learned counsel on either side.

2.The petitioner is an assessee registered with the respondent. The case on hand pertains to the assessment year 2011-12. The petitioner's assessment was concluded on deemed assessment basis. However, the respondent chose to issue pre-revision notice dated 24.03.2017. Thereafter, the petitioner offered his objections. But without granting any personal hearing, the impugned order came to be passed. The same is assailed in this writ petition.

3.The respondent has filed a counter affidavit and the learned Government Advocate took me through the same and wanted me sustain the impugned order. The learned Government Advocate also pointed out that the writ petition is not maintainable because the petitioner has not exhausted the alternative remedy of appeal.

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

(a) The respondent has chosen to hold that the petitioner's original assessment is defective only by verifying annexure of other end dealers. The said particulars were obtained by perusing the departmental website. But then, no enquiry was conducted with the other end dealer. This is violative of the procedure laid down in the decision reported in ***(2017) 99 VST 343 (JKM Graphics Solutions Vs. The Commercial Tax Officer).***

(b) No personal hearing was afforded to the petitioner herein.

5.On these two counts, 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 (CS-I)

// 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:

The Commercial Tax Officer,
Papanasam Assessment Circle,
Papanasam,
Thanjavur District - 614 210.

+1 CC to M/s.SPL GP (SR-11021[F] dated 15/03/2021)

+1 CC to M/s.K.SOUNDARAJAN, Advocate (SR-11507[F] dated 16/03/2021)

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VR (30/04/2021) 2P / 4C