BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.03.2021
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
W.P.(MD)No.11803 of 2017
and
W.M.P.(MD)No.9091 of 2017

M/s.Vasantham Enterprises,
Represented by its Proprietor B.Udhayakumar Joseph,
55, City Bazzar,
Virudhunagar Road,
Aruppukottai. ... Petitioner

-Vs-

The Commercial Tax Officer,
Aruppukottai Assessment Circle,
Aruppukottai. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in TIN No.33445800692/2015-16, dated 01.06.2016 and to quash the same as illegal, arbitrary and against the proviso under Section 3(4)(a) of TNVAT Act, 2006 and direct the respondent to furnish the records relied in notice dated 05.05.2016 which lead him to make an revision of assessment including the opportunity of being heard to the petitioner within 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 petitioner is an assessee registered with the respondent. The case on hand pertains to the assessment year 2015-16. The impugned order of assessment is challenged in this writ petition on very many grounds.

3.The respondent has filed his counter affidavit seeking to sustain the same. The learned Government Advocate took me through its contents.

4.After a careful consideration of the rival contentions and the materials on record, I am of the view that the impugned order is to be quashed on the following two grounds.

(a) non granting of personal hearing to the petitioner.

(b) the case of the respondent rests on mismatch as ascertained from the particulars found in the departmental website.

5.In such an event, enquiry with the other end dealer must be conducted. The procedure laid down in *J.K.M.Graphics Solution Private Limited case* was not followed in this case.

6.For the foregoing reasons, 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.

7.The learned Government Advocate brings it to the Court's notice that the amount paid by the petitioner in terms of interim order may abide by the outcome of the order to be passed after remand. In other words, there is no question of immediate refund but it will be adjusted in terms of the order to be passed after remand.

Sd/-
Assistant Registrar (CS II)

// 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,
Aruppukottai Assessment Circle,
Aruppukottai.

+1 CC to M/s.S.KARUNAKAR, Advocate (SR-10448[F] dated 11/03/2021)

+1 CC to M/s.SPL GP (SR-10924[F] dated 12/03/2021)

W.P.(MD)No.11803 of 2017
and
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SVN(CO)
RR(08.04.2021) 2P 4C