



WEB COPY



W.P.No. 3074 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2022

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.3074 of 2020 &
WMP.Nos.3604 of 2020

KTM Jewellery Limited
Represented by its Managing Director
T.K.Chandiran
Formerly at 6, Bharathi Colony,
1st Cross West, Peelamedu, Coimbatore,
Now at
636, Oppanakkara Street,
Coimbatore-641001

...Petitioner

Vs.

Assistant Commissioner,
Peelamedu (North) Assessment Circle,
Coimbatore.

...Respondent

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records on the files of the respondent herein in TIN No.33402121795/2014-15 dated 29.11.2019 and quash the same.

For Petitioner : Mr.Sarath Kumar for
Mr.N.Inbarajan
For Respondents : Mrs.K.Vasanthamala
Government Advocate



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ORDER

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The challenge in this matter is to an order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2014-15. Several issues arise in the order of assessment and petitioner is stated to have approached the Appellate Authority with regard to one of the issues, in relation to the turnover from sale of wind mill.

2. As regard the balance, learned counsel for the petitioner states that no effective opportunity was granted to the petitioner to make its submissions prior to completion of assessment. He would particularly urge that the petitioner has not been heard in person.

3. Learned Government Advocate, for her part, would point out that pre-assessment notice dated 30.07.2019 does grant an opportunity of personal hearing, that was unavailed by the petitioner.

4. I am of the view that the opportunity granted under notice dated 30.07.2019, which is admittedly, the only notice issued to the petitioner prior to finalizing of assessment, does not conform to proper procedure.

5. The respondent calls upon the petitioner to file a written objection to the proposal, which has been done by the petitioner. The notice also states that, if any personal hearing is required, the petitioner may avail the



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same at 11.00 a.m at any date before the filing of objection.

6. A personal hearing must be afforded specifying the date and time of hearing. That apart, such hearing must be pursuant to the receipt of objections in order that both parties may be fully aware of their respective stands. It is only in such circumstances that a personal hearing can be said to be effective.

7. In such circumstances and seeing as written objection has been filed by the petitioner, let the petitioner appear before the Authority on Thursday, the 24th of November at 10.30 am. without awaiting any further notice in this regard.

8. The impugned order to the extent, to which it has not been assailed in appeal, is set aside, subject to the condition that the petitioner appear before the authority on 24.11.2022. If the petitioner does not avail this opportunity, it is made clear that the benefit of this order will be unavailable to it and the impugned order will stand revived.

9. After hearing the petitioner, let the Officer pass an order within a period of four weeks from the date of personal hearing.



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10. This writ petition is disposed as above. No costs. Connected

miscellaneous petition is closed.

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ska

Index : Yes/No

Speaking Order

To

Assistant Commissioner,
Peelamedu (North) Assessment Circle,
Coimbatore.



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DR.ANITA SUMANTH,J.
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