IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.13242 of 2019 &
W.M.P.No.13359 & 13361 of 2019

M/s.JKB Corporation,
represented by its Proprietor,
No.378, Poottai Road,
Sankarapuram,Villupuram District. ... Petitioner

Vs.

The Commercial Tax Officer,
Kallakurichi. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TIN 33214781300/2016-17, quash the assessment order dated 13.02.2019 passed therein.

For Petitioner : Mr.P.V.Sudakar
For Respondent : Mr.Harsha Raj
Additional Government Pleader
Senior Standing Counsel

O R D E R

The petitioner is on a second round of litigation before this Court and the sole ground raised assailing an order of assessment dated 13.02.2019, passed in terms of the provisions of the Tamil Nadu Value Added Tax, 2006 (in short 'Act') for the period 2016-17, is lack of personal hearing afforded prior to completion thereof.

2. The petitioner had challenged the assessment order by way of a writ petition in W.P.No.5716 of 2018 and by order dated 14.03.2018 the order was set aside and, in conclusion, the officer was directed to conclude the assessment afresh taking note of the objections already on record but after affording an opportunity of personal hearing.

3. Pursuant thereto, the officer, vide notice dated 28.11.2018, calls upon the petitioner to appear but in vague and unclear terms stating that he may appear on any day with

documentary evidence within 15 days from the receipt of the notice.

4. Since personal hearing has not been fixed by date and time, which is the proper and appropriate manner for fixing of personal hearing, the impugned order is set aside. There must be clarity as to when the officer has fixed the hearing as leaving the notice open-ended, as in this case, will mean that the petitioner may appear on any date/time within the range indicated and the officer cannot be expected to be in attendance at all times during that period. Moreover, the officer cannot be expected to ascertain in each and every case when the notice has been received by the assessee concerned and this adds to the lack of clarity.

5. The impugned order is set aside on the ground that it is violative of the principles of natural justice as well as the specific direction of this Court. Personal hearing is thus fixed as follows, and the petitioner directed to appear before the respondent on Friday, the 24th of June, 2022 at 10.30 a.m. to facilitate the completion of assessment, without awaiting any further notice, as this order has been dictated in presence of both learned counsel for the petitioner and respondent.

6. Let orders of assessment afresh be passed afresh after consideration of material already on record or any other material that may be produced by the petitioner on 24.06.2022, within a period of four weeks thereafter i.e. on or before 29.07.2022. If the petitioner does not appear on 24.06.2022, then it is made clear that the impugned order shall stand revived without any further reference to the petitioner.

7. This writ petitions is disposed as above. Connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer, Kallakurichi.
+1cc Special Government Pleader (Taxes)S.R.No.37264 (21/06/2022)

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