BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.09.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.24020 of 2019
and
W.M.P.(MD)No.20615 of 2019

M/s.Sakunthala Tyres,
Represented by its Proprietor,
Mr.P.Suresh,
No.4/30, Annes Complex,
Promenade Road,
Cantonment,
Trichy – 1. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Palakkarai-I Assessment Circle,
Commercial Tax Building,
Trichy. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records in TIN 33853521015/2010-11 dated 12.02.2018 and consequential notice dated 14.03.2019 in TIN 338723440916/2010-11 issued by the Respondent and quash the same passed without jurisdiction, arbitrary, illegal and barred by limitation under Section 27(2) of the Tamil Nadu Value

Added Tax Act, 2006 and direct the Respondent to conduct an enquiry as contemplated under Section 27 of the TNVAT Act 2006 after furnishing the records as relied by the Respondent and pass a assessment order afresh in the light of the guidelines enunciated in the batch of Writ Petitions in the case of M/s.JKM Solutions Private limited reported in 2017 (99) VST 343 (Mad) including the opportunity of personal hearing.

For Petitioner	:	Mr.S.Karunakar
For Respondent	:	Mr.T.Amjadkhan Government Advocate

O R D E R

This Writ Petition is filed challenging the impugned order of assessment dated 30.11.2017 wherein it was stated that on verification of departmental website, the Petitioner effected sales to an amount of Rs.11,98,249/- to registered dealers, but the sales are not reflected in the returns.

2. Though notice was issued to the Petitioner on 30.11.2017, the Petitioner was unable to respond to the same as the Petitioner was unwell. In the meanwhile, the impugned order dated 12.02.2018 was passed

confirming the proposal. The present Writ Petition is filed challenging the order, dated 12.02.2018 on the premise that the impugned order is made in violation of principles of natural justice inasmuch as no personal hearing was granted.

3. To the contrary, the learned Government Advocate for the Respondent submits that the Petitioner despite having received the notice, has not filed its objection and therefore they have proceeded to complete the assessment.

4. In response, the learned counsel for the Petitioner submitted that non-submission of their reply was only in view of the health reasons and that failure to grant personal hearing would vitiate the proceedings. He further submitted that the Petitioner are ready and willing to pay 50% of the tax to demonstrate their *bonafide* and sought for an opportunity.

5. The learned Government Advocate for the Respondent did not have serious objection in view of the medical reasons cited by the Petitioner.

6. In view of the same, this Court is inclined to remand the matter back to the Assessing Authority to re-do the assessment. The Petitioner shall submit its objection along with documentary evidence in support of the claim within a period of four weeks from the date of receipt of a copy of this order. The Respondent shall proceed to complete the assessment within a period of eight weeks thereafter. If for any reason / objection or document are not filed by the Petitioner, it is open to the Respondent to proceed further on expiry of four weeks from the date of receipt of a copy of this order and pass order in accordance with law on merits. It is also made clear that 50% of the tax shall be paid within a period of three weeks from the date of receipt of a copy of this order.

7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

14.09.2022

Index : Yes / No
Speaking Order : Yes / No

vji

To

The Assistant Commissioner (CT),
Palakkarai-I Assessment Circle,
Commercial Tax Building,
Trichy.

MOHAMMED SHAFFIQ, J.

vji

W.P.(MD)No.24020 of 2019
and
W.M.P.(MD)No.20615 of 2019

14.09.2022