



WEB COPY

W.P(MD).No.19983 of 202



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.19983 of 2021

and

W.M.P(MD)No.16671 of 2021

M/s.Susee Automobiles Private Limited,

Represented by its Director,

J.Rajiv Subramanian

H-4, Sidco Industrial Estate,

... Petitioner

Vs.

The State Tax Officer,

Thirupparankundram Circle,

Madurai-20,

Madurai District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the Respondent in its impugned proceedings in TIN No. 33143521454/2010-11, dated 24.09.2021 quash the same as illegal and violative to the principles of natural justice.

For Petitioner : Mr.S.Raja Sekar

For Respondent : Mr.M.Prakash
Additional Government Pleader

**ORDER**

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This writ petition has been filed challenging the impugned order, dated 24.09.2021 for the assessment year 2010-2011 on the premise that the Assessing Officer has proceeded to complete the Assessment without even considering the objections filed by the Petitioner and documents submitted in support thereof.

2. It is submitted by the learned counsel for the Petitioner that the Petitioner had filed replies on 30.10.2012, 10.11.2012, 30.11.2012, 31.07.2017, 20.04.2018, 28.02.2019, 11.11.2019, 12.12.2019. The Assessing Officer while passing the assessment order has proceeded on the basis that no objections have been filed by the Petitioner as would be evident from the following finding in the impugned proceeding:

"the dealer did not file any objection so far. So, the proposal was confirmed as below....."

The above observations are contrary to the material on record. For instance, reply dated 20.04.2018 has also been acknowledged and the official seal is also affixed and with regard to the objections, dated 28.02.2019, it bears the signature of the Officer, though it does not contain the seal. The



impugned order having been made without taking into account the objections filed by the petitioner, suffers from gross non-application of mind to the materials on record.

3. The learned counsel for the respondents would contend that inasmuch as there is a alternate remedy by way of appeal, the writ petition ought not be entertained.

4. Heard both sides, perused the materials available on record.

5. This Court is of the view that a perusal of the impugned order would reveal that the order has been passed without considering the objections, and thus stands vitiated for violation of principles of natural justice. The opportunity that is contemplated for the assessee to respond is not an empty formality but one that is real and reasonable. It is trite law that natural justice has several facets and one of them being the need to consider the submissions, materials/ evidence submitted/ let in on both sides while arriving at a conclusion. Failure to comply with the above requirement, would vitiate the proceedings. The impugned order suffers from the above infirmity inasmuch as it proceeded on the basis that no objections were filed, though objections were filed by the petitioner on more than one occassion. The impugned order



thus suffers from the vice of being perverse, arbitrary and is in violation of principles of natural justice and thus liable to be set-aside.

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6. In view of the same, the impugned order, dated 24.09.2021 is set aside. This would not preclude the Respondent from framing an assessment order after issuing notice and affording reasonable opportunity and the Officers shall also affix the seal, whenever reply was filed, to avoid any doubts or uncertainty. It is open to the Petitioner to raise the plea of limitation. If such plea is raised, the same shall also be considered. It is also open to the Petitioner to file fresh/additional set of documents filed earlier.

7. The writ petition stands disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

29.11.2022

Index : Yes / No
Internet : Yes/ No
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MOHAMMED SHAFFIQ, J.

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To:

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Thirupparankundram Circle,
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