



W.P.(MD)No.23400 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :12.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.23400 of 2022

and

W.M.P.(MD).Nos.17478 & 17479 of 2022

M/s.Susee Premium Automobiles Pvt.Ltd.,
[Formerly known as M/s.Susee Motor Cycles
Pvt.Ltd.,]

Rep by its Director J.Rajiv Subramanian,
No.25, Tamil Sangam Road,
Madurai- 625 001.

... Petitioner

Vs.

The Assistance Commissioner (ST),
Madurai Rural South Circle,
Madurai.

... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari, calling for the records of the
respondent in his impugned proceedings made in TIN:
33405163424/2007-08 dated 28.06.2022 quash the same.

For Petitioner	:	Ms.R.Hemalatha
For Respondents	:	Mr.M.Prakash Additional Government Pleader



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ORDER

This writ petition is filed against the impugned proceedings made in TIN:33405163424/2007-08 dated 28.06.2022.

2.The petitioner is an authorized dealer for Two Wheeler Motor Cycles, carrying on with the functions of sales, service and sale of spare parts. The petitioner is an assessee on the file of the respondent herein.

3.The learned counsel for the petitioner submits that the Enforcement Wing Officers were audited in petitioner's business place on 19.11.2009, 21.11.2009 and 17.03.2010, where certain alleged defects were noticed. In respect of the same and based on the proposals sent by the Enforcement Wing Officers, the respondent has sent a proposal notice in TIN No.33405163424/2007-08 dated 21.05.2012. The respondent has granted 15 days time for filing objections against the proposal notice, but before expiry of 15 days time, the respondent has passed the proceedings in TIN No.33405163424/2007-08 dated 14.06.2012. Hence, the petitioner has

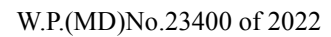


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challenged the impugned proceedings of the respondent made in TIN No. 33405163424/2007-08 dated 14.06.2012 before this Court in W.P.(MD).No. 9645 of 2012 and this Court, by order dated 05.09.2018, was pleased to pass the following order:

“Accordingly the impugned order dated 14.06.2012 is set aside and the petitioner shall submit his objections within a period of two weeks from the date of receipt of a copy of this order and the respondent in turn, shall afford an opportunity of personal hearing to the petitioner by fixing a specific date and pass appropriate orders on merits and in accordance with law. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. It is needless to state that the petitioner does not cooperate in the enquiry or does not avail the personal hearing, the respondent shall pass orders in accordance with law.”

4.On receipt of the order of this Court, the respondent has issued a revised pre-revision notice dated 24.10.2019. Thereafter, the respondent served a personal hearing notice dated 05.05.2022 affording an opportunity of personal hearing on 11.05.2022 at 11.00AM. The petitioner has sent a



6. According to the learned counsel for the petitioner, even before the time requested for filing objections by the petitioner was over, the respondent has passed the order, which is against the principles of natural justice and therefore, the petitioner is before this Court, challenging the impugned order dated 28.06.2022.



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7.Considering the facts and circumstances of this case, it is seen that the petitioner seeks one more time for personal hearing, because of the non-availability of the petitioner's Accountant. Since the petitioner has received the notice on 10.05.2022 at 11.00 AM., which was sent by the respondent on 05.05.2022 for the personal hearing on 11.05.2022 at 11.00 A.M. the petitioner was unable to appear before the respondent for personal hearing. Thus, this Court is of the opinion that the ends of justice would be met, if the impugned order passed by the respondent is set aside.

8.Accordingly, the impugned proceedings passed by the respondent made in TIN:33405163424/2007-08 dated 28.06.2022 is set aside and the petitioner is directed to appear before the respondent on 27.10.2022 for personal hearing and on that day, the petitioner shall submit all the documents, written statements and objections etc. The respondent shall take into account reply/document if any filed and proceed to complete the assessment, in accordance with law.



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9. With the above directions, this writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

12.10.2022

Index : Yes / No

Speaking Order/Non-speaking order

sbn

To

The Assistance Commissioner (ST),
Madurai Rural South Circle,
Madurai.



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MOHAMMED SHAFFIQ, J.

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