IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P. Nos.1067 and 1077 of 2023 and
W.M.P. Nos.1054 and 1063 of 2023

S.Ramesh ... Petitioner in both cases

vs.

State Tax Officer,
Thiruvanmiyur Assessment Circle,
Integrated Commercial Tax and Registration,
Department Building,
Saidapet,
Chennai – 600 035. ... Respondent in both cases

Prayer in both cases: Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in the impugned order bearing reference number 33110925217/2014-15 and 2015-16 dated 14.09.2022, passed by the respondent and quash the same with a direction to remand the matter back to the file of the respondent to consider the matter afresh after providing an opportunity for being heard, in accordance with law.

For petitioner in both cases : Mr.K.Senguttuvan

For respondent in both cases : Mr.C.Harsha Raj,
Additional Government Pleader

COMMON ORDER

By consent of both the parties, these writ petitions have been taken up for final disposal at the admission stage itself.

2.Challenging the impugned order bearing reference number 33110925217/2014-15 and 33110925217/2015-16, both dated 14.09.2022, passed by the respondent and seeking for a direction to the respondent to remand the matter back to the file of the respondent to consider the matter afresh, these writ petitions have been filed.

3.The petitioner has challenged the impugned assessment orders dated 14.09.2022, passed by the respondent on the following grounds:

a)The Principles of natural justice have been violated by the respondent;

b)No personal hearing was granted to the petitioner;

c)Reply dated 14.12.2020 sent by the petitioner was not considered.

4.Heard Mr.K.Senguttuvan, learned counsel for the petitioner and Mr.C.Harsha Raj, learned Additional Government Pleader, who accepts notice on behalf of the respondent.

5.Admittedly, no personal hearing has been offered to the petitioner as seen from the impugned assessment orders. The reply dated 14.12.2020 sent by the petitioner to the respondent, which was duly acknowledged by the respondent on 23.12.2020, as seen from the acknowledgment, has not been considered by the respondent in the impugned assessment order. In the reply dated 14.12.2020, the petitioner has stated as follows:

> *'1.The Company ceased to function from 31.12.2009 and a copy of our letter dated 23.02.2010 addressed to your office is enclosed;*
> *2.The bank account was closed way back in May 2010 and the relevant page of the bank statement is enclosed;*
> *3.In view of sl.no.(1) and (2), there was no imports thereafter;*
> *4.Therefore we suspect foul play and misuse of our TIN;*
> *5.Since you have issued the above said notice based on certain information, we request you to kindly provide us copies of the following:*
> *a.Bills of entries;*

b.Commercial invoices;

c.Packing lists;

d.Bills of lading;

e.Certificate of origin;

f.Insurance;

g.Test Certificate;

h.Name of the custom house agent;

in order to enable us to understand the gravity of the situation and if required to lodge a formal complaint with the concerned authorities to investigate the matter further.'

6.As seen from the above, the petitioner has categorically contended that their company ceased to function from 13.12.2009 and therefore, bank account was closed way back in May 2010. The subject assessment pertains to the year 2014-15. Unless and until the petitioner's contention with regard to their closure of their business was considered by the respondent, the question of passing a correct assessment order will not arise. Having not considered the same in the impugned assessment order dated 14.09.2022, the same will have to be quashed and remanded back to the respondent for fresh consideration, on merits and in accordance with law, after affording a personal hearing to the petitioner. Accordingly, the impugned assessment orders, both dated 14.09.2022 passed by the respondent are hereby quashed and the matter is remanded back to the respondent for fresh consideration, on merits and in accordance with law, after affording a personal hearing to the petitioner on 03.02.2023. The respondent shall pass final orders, on merits and in accordance with law, after giving due consideration to the contention of the petitioner, within a period of four weeks from the date of personal hearing to be afforded to the petitioner.

7.With the above directions, these writ petitions stand disposed of. Consequently, connected W.M.Ps stand closed. No costs.

19.01.2023

Index: Yes/No
vga

To

State Tax Officer,
Thiruvanmiyur Assessment Circle,
Integrated Commercial Tax and Registration,
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ABDUL QUDDHOSE, J.

vga

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