IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.2735 of 2023 &
W.M.P.No.2735 of 2023

1.Lakshmi Ammal
2.Jayalakshmi Sekar ... Petitioners

vs.

1.The Additional Commissioner (RA & R),
Office of the Principal Secretary/Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Joint Commissioner (ST), Commercial Taxes Staff,
Training Institute,
Chennai (East) Division, Nandanam,
Chennai - 35.

3.The Joint Commissioner (CT),
Trichy Division, Commercial Taxes Building,
Court Compound, Cantonment,
Trichy - 620 001.

4.The Assistant Commissioner (ST),
Gandhi Marker Circle,
Govt. Multi Storied Buildings,
Kajamalai Colony, Trichy - 620 020.

5.R.Sukumar ...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorari to call for the records of the impugned order passed by the first respondent vide No.RA1/1890680/2022 dated 22.11.2022 and impugned summon for appearance issued by the second respondent vide Ref.No.1070/2022/A1 dated 28.12.2022 and quash the same.

For Petitioners : Mr.S.Mohameduduman

For Respondents 1 to 4 : Mr.C.Harsha Raj
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order dated 22.11.2022 passed by the first respondent as well as the consequential summons dated 28.12.2022 issued by the second respondent.

2. Heard Mr.S.Mohameduduman, learned counsel for the petitioners and Mr.C.Harsha Raj, learned Additional Government Pleader appearing for the respondents 1 to 4. Since no adverse orders are going to be passed against the fifth respondent, notice to the fifth respondent is dispensed with by this Court.

3. The petitioners have challenged the impugned order dated 22.11.2022 passed by the first respondent and the consequential summons dated 28.12.2022 issued by the second respondent in this writ petition. According to the petitioners, no notice was served on them in the impugned proceedings and the impugned order dated 22.11.2022 passed by the first respondent was also not served on them. Therefore, according to them, by violating the principles of natural justices, the first respondent has passed the impugned order dated 22.11.2022 remanding the matter back to the second respondent for fresh consideration. According to the petitioners, since the first respondent has violated the principles of natural justice, the consequential summons issued by the second respondent to the petitioners on 28.12.2022 has also got to be quashed

4. As seen from the impugned order dated 22.11.2022 passed by the first respondent, admittedly there is no reference to any notice having been served on the petitioners in the said proceedings.

5. Learned Additional Government Pleader appearing for the official respondents on the last hearing date i.e., on 01.02.2023 was directed to get

instructions as to whether notice was received by the petitioners in the impugned proceedings of the first respondent and as to whether the impugned order dated 22.11.2022 was duly served on the petitioners.

6. Today, learned Additional Government Pleader appearing for the official respondents would submit on instructions that no personal hearing was afforded to the petitioners in the impugned proceedings and that he was unable to get instructions as to whether the notice was served on the petitioners in the impugned proceedings of the first respondent or not.

7. When the impugned order does not disclose as to whether the notice was served on the petitioners or not and that too, when the petitioner categorically contends before this Court that they were not served with the notice, this Court will have to believe the statement of the petitioners, that too when the learned Additional Government Pleader appearing for the official respondents has submitted that no personal hearing was afforded to the petitioner in the impugned proceedings. Since the Summons dated 28.12.2022 which is also the subject matter of challenge in this writ petition was issued, pursuant to the impugned order dated 22.11.2022 passed by the first respondent on account of violation of principles of natural justice, the impugned order dated 22.11.2022 as well as the consequential summons

dated 28.12.2022 have to be quashed and the matter has to be remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioners.

8. For the foregoing reasons, the impugned order dated 22.11.2022 and the consequential summons dated 28.12.2022 issued by the first respondent are hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law. The first respondent shall pass final orders after affording a fair hearing to the petitioners as well as to the fifth respondent, including granting them personal hearing within a period of twelve weeks from the date of receipt of a copy of this Order.

9. With the aforesaid directions, this writ petition is disposed of. No costs. consequently, connected miscellaneous petition is closed.

02.02.2023

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No

To

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ABDUL QUDDHOSE, J.

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