**(2011) 04 MAD CK 0138**

**In the Madras High Court**

**Case No :** Writ Petition No. 8399 of 2011 and M.P. No. 1 of 2011

Tvl. Michelin Apollo Tyres Pvt. Ltd. APPELLANT

Vs

The Assistant Commissioner (CT) RESPONDENT

**Date of Decision :** 07-04-2011

**Acts Referred:**

**Citation :** (2011) 186 ECR 66

**Hon'ble Judges :** M. Jaichandren, J

**Bench :** Single Bench

**Advocate :** S. Ramanathan, for the Appellant; R. Mahadevan, AGP (T), for the Respondent

**Final Decision :** Allowed

# Judgement

M. Jaichandren, J.—Heard the learned Counsel appearing on behalf of the Petitioner and the learned Additional Government Pleader (Tax)

appearing on behalf of the Respondent.

2. The main contention of the learned Counsel appearing on behalf of the Petitioner is that the impugned assessment order passed by the

Respondent cannot be sustained in the eye of law, in view of the fact that he had wrongly stated that the Petitioner had not been assessed for the

assessment years, 2004-05 and 2005-06. Therefore, the additional 10% tax on the turnover of the Petitioner for the year, 2006-07 had been

levied stating that the Petitioner had not filed the returns for the assessment years, 2004-05 and 2005-06. Further, the Respondent had also levied

surcharge and penalty, contrary to the facts and the relevant provisions of law. In such circumstances, the impugned order of the Respondent,

dated 31.01.2011, is liable to be set aside as the Petitioner had, in fact, already submitted the returns and the Petitioner had also been assessed for

the assessment years, 2004-05 and 2005-06, after verification of the accounts.

3. The learned Additional Government Pleader (Tax) appearing on behalf of the Respondent, had submitted that there is a factual error committed

by the Respondent in stating that the Petitioner had not submitted the returns for the assessment years, 2004-05 and 2005-06. However, the

Respondent had rightly found that the Petitioner had not submitted the necessary records, to substantiate the claims made by the Petitioner, in

respect of the turnover for the assessment year, 2006-07.

4. In such circumstances, this Court finds it appropriate to set aside the impugned order of the Respondent, dated 31.01.2011. The Petitioner is

permitted to submit the relevant records and to raise the necessary objections before the Respondent, in respect of the assessment year, 2006-07,

within a period of 15 days from the date of receipt of a copy of this order. On the Petitioner, producing the relevant records and raising the

necessary objections, the Respondent shall consider the same and pass appropriate orders thereon, on merits and in accordance with law, within a

period of four weeks thereafter.

The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.