(2014) 11 MAD CK 0205

In the Madras High Court

Case No : Writ Petition No. 28919 of 2014 and M.P. No. 1 of 2014

Tvl. Nagappa Auto APPELLANT

Vs

The Assistant Commissioner (CT) RESPONDENT

Date of Decision : 10-11-2014

Acts Referred:

Citation : (2014) 11 MAD CK 0205

Hon'ble Judges : T.S. Sivagnanam, J

Bench : Single Bench

Judgement

T.S. Sivagnanam, J.—With the consent of both sides, this Writ Petition is taken up for final hearing at the admission stage itself.

2. The Petitioner, a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act 2006, who deals with the sale of two wheelers'', spares and accessories at local as well as inter-state, has challenged the assessment order dated 28.08.2014 for the year 2011-12.

3. Though several grounds have been raised in this writ petition, which would involve appreciation of factual matrix, the learned counsel appearing for the petitioner laid emphasis on the contentions that the impugned order passed is in violation of principles of natural justice as the respondent has not given an opportunity of personal hearing and even prior to the date of personal hearing, the impugned order of assessment has been passed.

4. In order to verify the correctness of the submissions, the learned Additional Government Pleader was directed to accept notice and to get original file from the office of the respondent. Today, the learned Additional Government Pleader has produced original file, from which, it is seen that the petitioner was issued a notice on 21.07.2014, fixing a date for personal hearing at 11 a.m. on 30.08.2014. In the notice dated 21.07.2014, though the date has been printed as 30.07.2014, subsequently, the date has been altered as 30.08.2014 in green ink and the notice has been signed by the respondent. Therefore, it is evidently

clear that the date of personal hearing was fixed on 30.08.2014 and in such circumstances, the respondent should not have passed the impugned order on 28.08.2014, prior to the date fixed for personal hearing. Hence, it is evidently clear that the impugned order is in violation of the principles of natural justice and on this ground only, the petitioner is entitled to succeed.

5. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent shall afford an opportunity of personal hearing to the petitioner, during which, the petitioner shall be entitled to produce all documents and records in support of their contentions and after hearing the petitioner, the respondent shall pass orders, on merits and in accordance with law, within a period of six weeks from the date on which the personal hearing is concluded. It is made clear that this Court has not gone into the merits of the petitioner''s contentions and it is open to the respondent to consider the same in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.