

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31-01-2011

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.664 of 2011 and
M.P.No.1 of 2011

M/s.Fluka Petroleum,
34/1, Millers Road,
Kilpaum, Chennai-600 010.

.. Petitioner.

Versus

The Commercial Tax Officer,
Ayanavaram Assessment Circle,
Chennai.

.. Respondent.

Prayer: Petition filed under Article 226 of the Constitution of India seeking for a Writ of Certiorari calling for the records of the respondent in his proceedings in CST/596698/1996-97, and quash the assessment order, dated 26.2.1999.

For Petitioner : Mr.C.Bakthasiromani

For Respondent : Mr.K.Radha Krishnan
Government Advocate

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

2. The main contention of the learned counsel appearing on behalf of the petitioner is that the impugned assessment order, dated 26.2.1999, had been passed by the respondent, without issuing any prior notice to the petitioner, as provided, under Rule 52(1)(c) of the Tamil Nadu General Sales Tax, Rules, 1959. He had submitted that the petitioner had closed down his business, which he had been carrying on at 34/1, Millers Road, Kilpauk, Chennai, on 31.12.1996. In spite of the respondent knowing the residential address of the petitioner, which is found in the file of the respondent, the impugned order had been passed, without serving any notice, as per Rule 52(1)(c) of the Tamil Nadu General Sales Tax Rules, 1959.

3. The learned counsel appearing on behalf of the respondent had not refuted the said submission made by the learned counsel appearing on behalf of the petitioner.

4. In such circumstances, the impugned order of the respondent, dated 26.2.1999, is set aside. However, it would be open to the respondent to issue the pre-assessment notice on the petitioner, at No.45, Rosary Church Road, Mylapore, Chennai-4, and pass appropriate orders thereon, on merits and in accordance with law, after giving him an opportunity to raise his objections and an opportunity of personal hearing. The writ petition is ordered accordingly. No costs. Consequently, connected miscellaneous petition is closed.

csh

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

To

The Commercial Tax Officer,
Ayanavaram Assessment Circle,
Chennai.

+ 1 cc to Mr. C. Bakthasiromani, Advocate SR No.6873

+ 1 cc to Spl Government Pleader (T), SR No.7489

RS (CO)
SR/2.2.2011

सत्यमेव जयते

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