

Assessment Order liable to be set aside when Notice is not served physically

The Hon'ble Madras High Court in the case of ***Jak Communications (P.) Ltd. v. Deputy Commercial Tax Officer [W.P. No. 35453 of 2023 dated December 19, 2023]*** disposed the writ petition thereby setting aside the Assessment Order passed by the Revenue Department in cases where the Notices were not served physically to the Assessee, even though the Notices were uploaded on the web portal.

Facts:

Jak Communications (P.) Ltd. ("**the Petitioner**") filed a writ petition before the Hon'ble High Court against assessment order dated May 25, 2023 ("**the Impugned Order**") passed by the Revenue Department ("**the Respondent**") inter alia, contending that, the Impugned Order was passed in violation of principles of natural justice as the Petitioner was unaware of the Notice issued due to Notices not being served physically. Also, it was contended that, neither opportunity for filing reply nor opportunity for personal hearing was granted to the Petitioner.

Issue:

Whether Assessment Order is liable to be set aside when Notice is not served physically?

Held:

The Hon'ble Madras High Court in the case of ***W.P. No. 35453 of 2023*** held as under:

- Noted that, the Notices and the Impugned Order were uploaded in the web portal in the "View Additional Notices and Orders" column and the same were not physically served to the Petitioner, due to which the Petitioner was unaware of the said notice.
- Opined that, the aforesaid reason provided by the Petitioner appears to be genuine.
- Further Opined that, no order can be passed without granting sufficient opportunity to the Petitioner. Hence, the Impugned Order is liable to be set aside.

- Held that, the Impugned Order is set aside and matter be remitted back to the Respondent for adjudication.
- Directed that, the Petitioner shall file the reply and the Respondent shall dispose the matter after granting sufficient opportunity to the Petitioner.

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