IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.12483 of 2015
& M.P.Nos.1 and 2 of 2015

M/s.V.D.R.Traders,
Rep. by its Proprietor - V.Kaliyamurthy,
No.133-D, Gandhi Bazaar,
Gingee-604 202
Villupuram District. .. Petitioner

Vs.

The Commercial Tax Officer (FAC),
Gingee,
Villupuram District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN 33764740694/2013-14, dated 20.08.2014 and quash the same.

For petitioner : Mrs.R.Hemalatha

For respondent : Mr.A.N.R.Jayaprathap, Govt. Advocate

ORDER

The petitioner-firm is a dealer in grocery, vegetable oil, etc., and assessee on the file of the respondent. It is claimed that the petitioner-firm duly filed monthly Returns periodically for the assessment year 2013-14. According to the petitioner, on the basis of the inspection of the place of business of the petitioner-firm by the Enforcement Wing Officers on 02.07.2013, certain defects were noticed, based upon which, notice dated 21.07.2014 was issued under the provisions of the TNVAT Act, stating that on verification of the actual stock of vegetable oil taken at the time of inspection with that of the stock as per books, there was deficit in stock. Since no reply was filed, the proposal for revision of assessment, with levy of penalty, was confirmed, resulting in the issuance of the impugned order, dated 20.08.2014.

2. It is contended by the learned counsel for the petitioner that as per Section 15 read with Entry 8, under item No.65 of Part-B of

Fourth Schedule of the Tamil Nadu Value Added Tax Act, the sale of goods specified therein are exempt from tax, and the respondent, without reference to the same, issued the said revision notice, dated 21.07.2014, followed by the impugned order, which is against the provisions of the said Act.

3. On instructions, learned Government Advocate appearing for the respondent submitted that the petitioner may file their detailed objections to the revision notice, dated 21.07.2014, in which event, the respondent will look into each and every aspect on the issue and pass appropriate orders.

4. If the goods are exempted by the said Act, the same cannot be brought under taxable net. This aspect has to be looked into by the respondent, without merely following the Enforcement Wing report.

5. Hence, the impugned order is set aside. However, the petitioner is permitted to file their detailed objections to the said revision notice, dated 21.07.2014, within two weeks from the date of receipt of a copy of this order and on such objections being filed, the respondent shall consider the claim of exemption, on merits and in accordance with law, after giving due opportunity of hearing to the petitioner and pass appropriate orders, within a period of four weeks from the date of filing of such objections.

6. With the above observations/direction, the Writ Petition is disposed of. No costs. The Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

cs

To

The Commercial Tax Officer (FAC),
Gingee,
Villupuram District.

+1 cc to R.Hemalatha, Advocate, sr.39495
+1 cc to Special Government Pleader (Taxes), sr.40099

W.P.No.12483 of 2015

skv(co), kra(26/08)