IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.13824 of 2015
and M.P.No.1 of 2015

Tvl. Rajalakshmi Paper Mart [Petitioner]
Rep by its Proprietor M.Arumugam
13/388, Anna Nagar
Naduveerapattu Cuddalore Taluk

Vs

The Commercial Tax Officer
Cuddalore Taluk Assessment Circle 1
Commercial Taxes Buildings Sub Jail Road
Manjakuppam Cuddalore 607 001
[Respondent]

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records in respect of the impugned order in TIN 33124403874/2013-14 dt 26.2.2015 of the respondent under the Tamil Nadu Value Added Tax Act 2006 quash the same.

For Petitioner : Mr.S.P.Asokan

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

O R D E R

Heard the learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Taxes), who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. The petitioner has come forward with this writ petition challenging the assessment order passed by the respondent dated 26.02.2015.

3. The petitioner is a dealer registered under the Tamil Nadu Value Added Tax Act, 2006 with TIN.No.33124403874. For the assessment year 2013-14, an assessment order has been passed on 26.02.2015, wherein, pointing out the fact that the petitioner did not file monthly returns, it is stated by the respondent that a notice dated 28.11.2014 was issued and since the petitioner has not

filed objections, the proposal is confirmed. Challenging the same, the petitioner is before this Court.

4. There is a specific ground taken by the petitioner to the effect that no such notice was served on the petitioner.

5. The learned Additional Government Pleader (Taxes) was directed to take notice and get instructions with regard to service of notice and on whom the same was served, who, on instructions, submitted that no such reference is available in the files with regard to service of notice, as contemplated under the Act.

6. The said submission of the learned Additional Government Pleader (Taxes) is placed on record.

7. In view of the submission made by the learned Additional Government Pleader (Taxes), this Court has no other option except to set aside the impugned order for violating the principles of natural justice.

8. Accordingly, the impugned order dated 26.02.2015 passed by the respondent is set aside and the matter is remitted back to the respondent for issuing fresh notice. The respondent is directed to issue fresh notice to the petitioner within a period of two weeks from the date of receipt of a copy of this order. On receipt of such notice, the petitioner is permitted to file necessary objections, within a period of two weeks from the date of receipt of such notice. On such filing of objections, the respondent is directed to pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter, after providing an opportunity of personal hearing to the petitioner. It is made clear that if the petitioner fails to file objections as directed, it is open to the respondent to pass appropriate orders on merits.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Cuddalore Taluk Assessment Circle 1
Commercial Taxes Buildings Sub Jail Road
Manjakuppam Cuddalore 607 001.

+ 1 cc to the Government Pleader SR.42730

W.P.No.13824 of 2015

GP(CO)
EU 07.09.15