IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2015

Coram

The Hon'ble Mr. Justice T.RAJA

W.P.No.21005 of 2015
and M.P.No.1 of 2015

Tvl.Dhanaselvi Enterprises rep. by its
Partner R.Parpugazh .. Petitioner

Vs.

The Commercial Tax Officer,
Tambaram Assessment Circle,
No.19-A, Sivashanmugam Road,
West Tambaram, Chennai - 45. .. Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records of the respondent in TIN No.33941368099/2013-2014 dated 29.05.2015 and the consequential proceedings dated 09.06.2015 in TIN No.33941368099/2013-2014 and quash the same as illegal, arbitrary and without jurisdiction and against the principles of natural justice.

For Petitioner .. Mr.K.Soundararajan
For Respondent .. Mr.Manoharan Sundaram,
Addl. Govt. Pleader (T)

ORDER

This writ petition is directed against the impugned order passed by the Commercial Tax Officer, Tambaram Assessment Circle, Chennai in TIN No.33941368099/2013-2014 dated 29.05.2015.

2.Mr.K.Soundararajan, learned counsel for the petitioner has drawn the attention of this Court to the pre-revision notice dated 30.04.2015, wherein it has been stated that it was proposed to assess the turnover of discount received and the objections to the proposals may be filed in writing with all necessary documents in support of their claim within 15 days from the date of receipt of the notice. It was also indicated that the dealers will be given an opportunity of personal hearing to put forth their objections, failing which, the proposals will be confirmed without any further notice. According to the petitioner, no personal hearing was granted to the petitioner and the impugned conclusion reached by the respondent, based on the reply of the petitioner, is totally unjustified and unfair. On this score alone, he sought for interference.

3.This Court finds it difficult to agree with the said contention for the reason that the respondent, while issuing the notice dated 30.04.2015, has made it clear that the petitioner should file his reply in writing with all necessary documents within a period of 15 days from the date of receipt of the notice and they are also given an opportunity of personal hearing to put forth their objections, if any. Therefore, it is for the petitioner to ask for personal hearing, after filing the objections. But, in the present case, there is no such indication anywhere, either in the petitioner's reply or in any other subsequent letter addressed to the assessing officer, that the petitioner requested for personal hearing. However, the petitioner has moved a rectification application under Section 84 of the TNVAT Act, 2006, wherein the petitioner has indicated that without offering an opportunity of personal hearing, the impugned order was passed. Subsequently, the said application also came to be disposed of by a speaking order.

4.In view of the above, this Court, at this belated stage, is not inclined to interfere with the impugned order as the petitioner has got a right of appeal before the appellate authority. Therefore, the petitioner, if so advised, is directed to file an appeal, within a period of two weeks from the date of receipt of a copy of this order.

5.The writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

mmi

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Tambaram Assessment Circle,
No.19-A, Sivashanmugam Road,
West Tambaram, Chennai - 45.

Copy to:
1. The Section Officer, ER Section,High Court, Madras.
2. The Section Officer, Current Section, High Court, Madras

+ 1 cc to M/s.K.soundararajan, Advocate SR 35850

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 35821

rsk(co)
prk13/8

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