IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.22370 of 2015
and M.P.No.1 of 2015

Sakthi & Co. [Petitioner]
Rep. by C.Arun
No.266/2 Triplicane High Road
Chennai-5.

Vs

The Commercial Tax Officer (CT)
Chepauk Assessment Circle Station
No.621 Anna Salai Chennai-6.

[Respondent]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records of the proceedings in TIN No.33110662832/ 2014-15 dated 22.6.2015 received on 24.6.2015 on the file of the respondent herein quash the same.

For petitioner : Mr.G.V etrivelrajan

For respondent : Mr.S.Kanmani Annamalai, AGP(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. This writ petition has been filed by Sakthi & Co., represented by C.Arun, challenging the impugned order dated 22.06.2015 passed by the Commercial Tax Officer (CT), Chepauk Assessment Circle Station, Chennai in TIN No.33110662832/ 2014-15, wherein, the respondent has clearly mentioned that when notice dated 18.05.2015 was issued to the dealer inviting their reply or objection if any, the dealer has neither filed any reply nor sought for extension of time and therefore, the respondent has passed the impugned order. Further, a reading of paragraph 3 of the impugned order clearly

establish the fact that even personal hearing was also offered to the petitioner, but they did not appear to show the explanation or to make out a case. Therefore, finding no alternative, the respondent proceeded on the basis of the available records and facts of the case and finally passed the impugned order. Therefore, this Court is not inclined to entertain the writ petition when the petitioner has not chosen to file a reply. That apart in paragraph No.7 of the affidavit, the petitioner has stated that he has failed to reply to the notice issued by the respondent and hence the respondent has levied fine under Section 27(3) of the TNVAT Act without giving any opportunity to him, which is violative of principles of natural justice. This Court is not able to agree with the said contention, since, it is not the case of the petitioner that the respondent has proceeded without any notice. In the present case, the petitioner was issued with a notice and he has also given an opportunity of personal hearing, but, unfortunately, he has not utilised any one of them. Therefore, it is for the petitioner to work out his remedy.

3. In view of the above, the writ petition is dismissed. However, it is open to the petitioner to prefer an appeal against the impugned order, if so advised, within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rg

To
The Assistant Commissioner(CT)
Chepauk, Assessment Circle,
No.621 Anna Salai,
Chennai-6.

+ 1 cc to Mr.g. Vetrivelan, Advcoate Sr.37986
+ 1 cc to Special Government Pleader Sr.37972

W.P.No.22370 of 2015

BVR(CO)
EU 24.08.15