IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.2.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3892 of 2015
and
M.P.Nos.1 and 2 of 2015

Tvl.Sri Vari Enterprises
Rep by its Proprietor
D.Lakshmipathy
9 First Street A.N.Kandigai
Arakkonam 631 002
Vellore District ... Petitioner

vs.

The Commercial Tax Officer
Arakonam Assessment Circle
Arakkonam ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records on the file of the respondent in TIN No.33314303229/2012-13 dated 17.12.2014 and connected proceedings dated 31.12.2013 and quash the same as being contrary to the principles of natural justice and that of the principle laid down by this Honourableble Court in the Judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai Vs. Chief Commissioner of Income Tax (OSD) and another) and further direct the respondent to pass order after grant of enquiry and personal opportunity of being heard.

For Petitioner : Mr.R.Senniappan
For Respondents: Mr.Manoharan Sundaram, AGP(T)

ORDER

The petitioner has come forward with this writ petition challenging the order of the respondent dated 17.12.2014.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) for the respondent.

3. The learned counsel for the petitioner submitted that pursuant to the notice issued by the respondent dated 31.12.2013, a reply was submitted by the petitioner on 4.2.2014 contending that

during the assessment year, no VAT was collected from the customers and requested the authority to make a fresh assessment order taking into consideration the actual sales declared in the returns filed by them, however, the respondent has passed the impugned order on 17.12.2014.

4. The learned counsel for the petitioner further submitted that if an opportunity is given to the petitioner, they would be able to convince the authority. The learned counsel for the petitioner further submitted that the petitioner has also agreed to pay 20% of the amount as determined in the impugned order and if some time is granted, they would co-operate to enable the assessing officer to complete the proceedings afresh.

5. Taking note of the facts and circumstances of the case, I direct the respondent to accept 20% of the amount as determined in the impugned order, which the petitioner has agreed to pay, which can be adjusted from the refund, if any, and give one more opportunity to the petitioner to putforth their objections and thereafter to pass appropriate orders on merits and in accordance with law.

6. The petitioner is directed to appear on 16.03.2015 before the authority, on which date, he is entitled to make his verbal and written submissions, if any. In case the petitioner fails to avail this opportunity on 16.03.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case such an order is passed, after providing an opportunity to the petitioner, the petitioner undertakes that they will not approach the appellate authority, challenging that order. The said submission of the learned counsel for the petitioner is recorded.

7. This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.
To
The Commercial Tax Officer
Arakonam Assessment Circle Arakkonam

1 cc to Special Government Pleader Sr.8243

W.P.No.3892 of 2015

KU(CO)
EU 27.02.15