IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.03.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7172 of 2015
and
M.P.No.1 of 2015

Tvl Vision Stationery Private Limited,
represented by its Senior Sales Executive,
Thiru K.Palanivelu,
No.8, Kasimadam Street,
Chidambaram. ...Petitioner

vs.

1. Appellate Deputy Commissioner of Commercial Taxes,
   No.9, C.T.Building,
   Sub Jail Road,
   Manjakuppam,
   Cuddalore - 607 001.

2. Commercial Tax Officer,
   Chidambaram - II Assessment Circle,
   No.99-100, South Car Street,
   Venkateswara Complex,
   Chidambaram - 608 001. ...Respondents

Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records in respect of notice of the second respondent in TIN:33234461480 - Rc.A3/420/2015 dated 05.03.2015 and quash the same.

For Petitioner : Mr.S.P.Asokan

For Respondents: Mr.Manoharan Sundaram,
Additional Government Pleader (Taxes)

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O R D E R

Petitioner has filed this writ petition seeking to quash the notice of the second respondent in TIN:33234461480 - Rc.A3/420/2015 dated 05.03.2015.

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

3. It is not in dispute that the petitioner has preferred an appeal against the order of the original authority. The petitioner has also deposited 25% of the disputed amount as contemplated under the Tamil Nadu Value Added Tax Act, 2006. For want of Presiding Officer, the appeal and the stay petition could not be heard. However, the second respondent having knowledge of the fact that there is no Presiding Officer, without waiting for an order on the stay petition, had issued the impugned notice directing the petitioner to pay the remaining amount failing which coercive action would be taken against it.

4. When there is no Presiding Officer, the petitioner cannot be blamed. Admittedly, the petitioner has deposited 25% of the disputed amount as contemplated under the Tamil Nadu Value Added Tax Act, 2006. This fact is also not disputed by the respondents. When a stay petition is pending, if no orders have been passed by the appellate authority, more so, for want of appellate authority, the final notice issued by the second respondent, which is impugned in this writ petition, is not correct and is liable to be set aside.

This Writ Petition is allowed. The notice of the second respondent in TIN:33234461480 - Rc.A3/420/2015 dated 05.03.2015, is set aside. The appellate authority, if any, appointed or nominated is directed to hear the stay petition. Depending upon the outcome of the stay petition and in case, any condition imposed therein is not complied with, it is open to the authorities concerned to take steps to recover the balance amount. No costs. Consequently, connected miscellaneous petition is closed.

gm

s/d-
Assistant Registrar(CS-III)
Dt:23/3/2015

True Copy

Sub-Assistant Registrar

To

1. The Appellate Deputy Commissioner of Commercial Taxes,
No.9, C.T.Building,
Sub Jail Road,
Manjakuppam,
Cuddalore - 607 001.

2. The Commercial Tax Officer,
Chidambaram - II Assessment Circle,
No.99-100, South Car Street,
Venkateswara Complex,
Chidambaram - 608 001.

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 14446

+ 1 cc to Mr.S.P.Asokan, Advocate SR 14322

rk(co)
prk25/3