IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.3.2015.

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.Nos.7670 and 7671 of 2015
and
M.P.Nos.1 of 2015

Tvl.Tulsi Tiles Pvt. Ltd.
rep. by its Director B.Kevalchand Jain
Plot No.106 Chettiar Agaram Road
Rajiv Gandhi Nagar
Noombal Village Vanagaram
Chennai 600 095 ... Petitioner

vs.

The Assistant Commissioner (CT)
Nolambur Assessment Circle
No.176 M.T.H.Road Villivakkam
Chennai 600 049 ... Respondent

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 files of the respondent in TIN.33211351477/2012-13 dated 28.1.2015 and TIN.33211351477/2011-12 dated 29.1.2015 and quash the same as being contrary to the principles of natural justice and that of the principle laid down by this Honourable 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 afresh in accordance with law.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.Kanmani Annamalai, AGP(T)

COMMON ORDER

The petitioner has come forward with the aforesaid prayer.

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

3. The learned counsel for the petitioner submitted that pursuant to the notice issued by the second respondent dated

16.12.2014, the petitioner had submitted replies on 23.12.2014 along with relevant documents and thereupon, the respondent, without properly considering the reply made and without giving an opportunity of personal hearing, had passed the impugned order and hence, if an opportunity is given to them, they would be able to convince the authority. The learned counsel for the petitioner further submitted that the petitioner has also agreed to pay 10% of the amount as determined in the impugned order and if three weeks' time is given, they would co-operate to enable the assessing officer to complete the proceedings afresh.

4. Taking note of the facts and circumstances of the case, I direct the respondent to accept 10% of the amount as determined in the impugned order, which the petitioner has agreed to pay, which can be adjusted from the refund and 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.

5. The petitioner is directed to appear on 20.4.2015 before the authority, on which date, the petitioner is entitled to make their verbal and written submissions, if any. In case the petitioner fails to avail this opportunity, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case an adverse order is passed on the failure of the petitioner to avail the opportunity, the petitioner undertakes that they will approach the appellate authority challenging that order by complying with pre-deposit and shall not seek the indulgence of this court on this score. The said submission of the learned counsel for the petitioner is recorded.

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

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To
The Assistant Commissioner (CT)
Nolambur Assessment Circle
No.176 M.T.H.Road Villivakkam Chennai 600 049

+1 cc to Mr.R.Senniappan, Advocate,SR.15776.
+1 cc to Spl.Government Pleader,sR.15692.

ts(co)
krd 7/4

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