BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.02.2015
CORAM:
THE HONOURABLE MR.JUSTICE B.RAJENDRAN
W.P.(MD)No.1887 of 2015 and M.P.No.1 of 2015

Tvl.Sri.Sakthi Ambigai Traders,
Represented by its Proprietor Thiru.Thangamariappan,
D.No.86/12, First Floor, New Road,
Kovilpatti. : Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Department of Commercial Taxes,
Fort.St.George, Chennai 600 009.

2.The Commissioner of Commercial Taxes,
Second Floor, Elilagam, Chepauk,
Chennai 600 005.

3.The Deputy Commercial Tax Officer I,
C.T.Buildings, Ettayapuram Road,
Kovilpatti. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the third respondent in his order in TIN 33325863517/2013-2014, dated 12.12.2014 and quash the same and to direct the third respondent to afford an opportunity to the petitioner to file objections.

For Petitioner : Mr.A.S.Mujibur Rahman

For Respondents : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R
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Mr.A.Muthukaruppan, learned Additional Government Pleader, takes notice for the respondents. By consent, the Writ Petition is taken up for disposal at the stage of admission itself.

2. Challenge in this Writ Petition is to the pre-assessment notice, dated 12.12.2014 and for a direction to the third respondent to afford an opportunity to the petitioner to file objections.

3. The learned counsel appearing for the petitioner would submit that earlier, a notice dated 26.11.2014 was issued to the petitioner, proposing to estimate the turnover, levy penalty and corresponding tax dues under the Act. The learned counsel would further submit that in the said proceedings, dated 26.11.2014, it is admitted that the petitioner has paid tax to the tune of Rs.1,34,789/- and granted seven days time to file objections. As the petitioner was in hospital, taking treatment

from 15.11.2014 to 15.12.2014, he was unable to file reply. Thereafter, the third respondent, by the impugned order dated 12.12.2014, confirmed the earlier notice dated 26.11.2014.

4. The learned counsel for the petitioner has produced a copy of the medical certificate dated 15.12.2014 to show that the petitioner was taking treatment. Therefore, the learned counsel would submit that one more opportunity may be given to the petitioner to put forth the case.

5. The learned Additional Government Pleader appearing for the respondents would only contend that sufficient opportunity had been granted to the petitioner and the petitioner has not availed such opportunity and therefore, the petitioner is not entitled for one more opportunity.

6. Taking into consideration of the above, more particularly, the medical certificate produced by the petitioner, this Court is of the view that merely because the petitioner was not present and raised objections, that will not disentitle the petitioner from getting relief.

7. Therefore, the impugned order dated 12.12.2014 is set aside and the petitioner is granted one week time from today to file reply and thereafter, the authority concerned will provide sufficient opportunity and pass appropriate orders, on merits and in accordance with law.

8. The Writ Petition is allowed as indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Per Admn.)

/TRUE COPY/

Sub Assistant Registrar

To

1.The Secretary to Government,
Department of Commercial Taxes,
Fort.St.George, Chennai 600 009.

2.The Commissioner of Commercial Taxes,
Second Floor, Elilagam, Chepauk,
Chennai 600 005.

3.The Deputy Commercial Tax Officer I,
C.T.Buildings, Ettayapuram Road,
Kovilpatti.

+1cc to Special Govt.Pleader SR.No.7898
+1cc to Mr.A.S.Mujibur Rahman,Advocate, SR.No.7208

ORDER MADE IN
W.P.(MD)No.1887 of 2015
DATED - 16.02.2015

NB
PA/20.02.15/2P/6C (IT)