



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2015

CORAM

THE HONOURABLE **MR.JUSTICE R.SUBBIAH**

W.P(MD).No.19736 of 2015

and

M.P(MD)No.1 of 2015

Tvl.Velan Ceramics
Represented by its Proprietrix,
S.Kalavathi

...Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner(CT),
Madurai Rural(South) Circle,
Commercial Taxes Complex,
Dr.Thangaraj Road,
Madurai - 625 020.

...Respondents

Prayer : This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent in TIN.3379480300/2014-15, dated 15.09.2015 and quash the same and to consequently direct the second respondent to re-do the assessment after giving adequate opportunity to the petitioner.

For petitioner	: Mr.B.Rooban
For Respondents	: Mr.R.Karthikeyan, Additional Government Pleader

ORDER

The Writ Petition has been filed praying for a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings of the second respondent in TIN.3379480300/2014-15, dated 15.09.2015 and quash the same and to consequently direct the second respondent to re-do the assessment after giving adequate opportunity to the petitioner.



2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents.

3. By consent, the Writ Petition itself is taken up for final disposal.

4. In the affidavit it has been averred that the petitioner Concern is a registered dealer on the file of the second respondent vide TIN.No.3379480300. During the subject assessment year 2014-15, they had reported a total cum taxable turnover of Rs.1,57,12,311/- and filed their monthly returns regularly as required under the TNVAT Act and paid the legitimate taxes due to the Department. While the matter stood thus, there was an inspection in the petitioner premises on 26.12.2014 and a statement has been recorded by the Enforcement Wing Officials as if the petitioner had suppressed purchases effected from other State and a sum of Rs.2,12,971/- was collected from the petitioner. Thereafter, to the shock and surprise of the petitioner the second respondent has passed the impugned order, dated 15.09.2015. But, actually the second respondent had not issued any notice to the petitioner. Aggrieved by the said order, the petitioner Concern has come forward with the present Writ Petition for the above stated relief.

5. When the matter is taken up for consideration, the learned counsel for the petitioner submitted that no opportunity of hearing was given to the petitioner before passing the impugned order under Section 22(4) of the TNVAT Act and hence, the impugned order is liable to be set aside. He further submitted that in similar circumstances, this Court has passed an order remitting back the matter to the authority concerned in W.P.No.1631 of 2015, dated 23.01.2015.

6. Considering the facts and circumstances of the case, this Court passes the following order:-

The petitioner firm is directed to remit 10% of the disputed tax in question to the second respondent within a period of two weeks from the date of receipt of a copy of this order.

On such payment, the order impugned in the Writ Petition

shall stand set aside and the second respondent is directed to provide an opportunity of personal hearing and pass



appropriate orders, on merits and in accordance with law,
within a period of four weeks, thereafter.

With the above direction, the Writ Petition stands disposed
of. No costs, consequently, connected miscellaneous petition is
closed.

Sd/-

Assistant Registrar (C.O.)

/True Copy/

Sub Assistant Registrar

To

1.The Commissioner of Commercial Taxes,
O/o.The Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner(CT),
Madurai Rural(South) Circle,
Commercial Taxes Complex,
Dr.Thangaraj Road,
Madurai - 625 020.

+1cc to Mr.B.Rooban, Advocate SR.No.64504

+1cc to The Special Government Pleader SR.No.64320

pm

akm/05.11.2015 /3p-5c/

W.P(MD).No.19736 of 2015
30.10.2015