IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.10895 of 2016 and
W.M.P.Nos.9494 & 9495 of 2016

Tvl.Sterling Stationery Centre,
rep by its Proprietrix
No.124, General Patters Road,
Chennai - 600 002. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Anna Salai Assessment Circle,
Chennai - 600 006. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records of the respondent in his order of assessment in TIN 33850600054/2014-15 dated 02.11.2015 and quash the same as illegal and unconstitutional and also to direct the respondent to grant an opportunity of personal hearing to the petitioner as provided under Section 3(4) of the TNVAT Act before passing fresh orders of assessment.

For Petitioner : Mr.A.Ravichandran

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

O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorarified mandamus to call for the records of the respondent in his order of assessment in TIN 33850600054/2014-15 dated 02.11.2015 and to quash the same and also to direct the respondent to grant an opportunity of personal hearing to the petitioner as provided under Section 3(4) of the TNVAT Act before passing fresh orders of assessment.

2.It is the case of the petitioner that the respondent had passed the impugned order stating that on scrutiny of the returns filed by the Proprietress dealer revealed that she had not exercised her option to file the monthly returns as mandated under Section 3(4) of the TNVAT Act for the assessment year 2014-15 on or before 30.04.2014. Further, the learned counsel submitted that the petitioner is willing to produce the purchase and sale details before respondent and in such an event, the respondent may be directed to decide the matter afresh.

3.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since the petitioner had filed Form-K there is no necessity for the respondent to state that the dealer revealed that she had not exercised her option to file the monthly returns as mandated under Section 3(4) of the Act. Further, the learned Additional Government Pleader (Tax) submitted that the petitioner may be directed to produce the purchase and sale details before the respondent and the respondent may be directed to decide the matter afresh.

4.In view of the submissions made by the learned counsel on either side, since the petitioner has been filing Form-K before the respondent, there is no necessity for the respondent to state that the dealer revealed that she had not exercised her option to file the monthly returns as mandated under Section 3(4) of the TNVAT Act and since the petitioner is having the purchase and sale details, the petitioner can be directed to produce the same before the respondent. In view of the same, the impugned order dated 02.11.2015 is set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to produce the purchase and sale details within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent is directed to decide the matter afresh and pass orders, on merits and in accordance with law, taking into consideration the objections filed by the petitioner and after affording due opportunity of personal hearing to the petitioner and also taking into consideration the documents to be filed by the petitioner.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Anna Salai Assessment Circle,
Chennai - 600 006.

+1cc to Mr.A. Ravichandran, Advocate, S.R.No.18433
+1cc to the Government Pleader, S.R.No.18621

KGK(CO)
EU(24/03/2016)

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