IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.10975 of 2016 and
W.M.P.No.9566 of 2016

Tvl.Eswari Agencies
rep by its Proprietrix Murugeswari
No.2, LGN Road, Chennai - 600 002
now at No.19/9, Dhandavarayan Street,
Royapettah, Chennai - 600 014. ... Petitioner

Vs.

The Commercial Tax Officer,
Tiruvellikeni Assessment Circle,
No.48, Pasumpon Muthuramalinga Devar Salai,
Chennai - 600 028. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records on the file of the respondent in TIN No.:33760681050/2011-12 dated 17.06.2015 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondents : Mr.S.Kanmani Annamalai, Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records on the file of the respondent in TIN No.:33760681050/2011-12 dated 17.06.2015 and to quash the same.

2.It is the case of the petitioner that inspite of the respondent mentioning the present address of the petitioner in the impugned order dated 17.06.2015, in the very same order, he has stated that the dealers have not informed their present address to the Department, hence, the notice is sent to them, which was returned by the Postal Authorities with an endorsement as “insufficient address”.

3.The learned counsel appearing for the petitioner submitted that since no notice was received by the petitioner, they had no opportunity to file their objections and contest the matter.

4.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since notices were sent to the petitioner's old address, the same could not be served on the petitioner, therefore, in the interest of justice, an opportunity may be given to the petitioner to give their objections and the respondent may be directed to decide the matter afresh.

5.In view of the submissions made by the learned counsel on either side, since the petitioner had not been served with notice prior to the passing of the impugned order, the same is liable to be set aside. Accordingly, the impugned order dated 17.06.2015 is set aside. The petitioner is directed to treat the impugned order as notice and send their reply within a period of two weeks from the date of receipt of a copy of this order. The respondent is directed to consider the objections to be filed by the petitioner and decide the matter afresh, after affording due opportunity of personal hearing to the petitioner.

6.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Tiruvellikeni Assessment Circle,
No.48, Pasumpon Muthuramalinga Devar Salai,
Chennai - 600 028.

+1 cc to the Special Government Pleader (Taxes) sr.18859
+1 cc to Mr.R.Senniappan Advocate sr.18907

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