IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.12448 of 2014 &

MP No.1 of 2014

Sree Padmavathy Trading Co.,
rep. by its Proprietrix, Tmt.S.Nirmala
Chennai. .. Petitioner

Versus

1.The Assistant Commissioner (CT)
Manali Assessment Circle
Kuralagam Annexe,, Chennai 600 108.

2.The Commercial Tax Officer
Group-VI
Chennai Central Enforcement
Chennai 600 006. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records on the files of the first respondent in pdl.178/2014/A2 dated 01.04.2013 and connected notice issued by the 2nd respondent in I.F.No.204/2013-14 Group-VI dated 08.04.2014 and quash the same as being without jurisdiction and authority of law and contrary to the principles laid down by this Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai Vs. Chief Commissioner of Income-Tax (OSD) and another).

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.Kanmani Annamalai
Addl. Government Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents. With the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.The petitioner has filed this Writ Petition challenging the order passed by the first respondent dated 01.04.2013, and the consequential memo asking the petitioner to produce the books of accounts. The petitioner has challenged the impugned order on the ground of violation of principles of natural justice.

3.It is stated that when action is initiated under section 22(4) of the TNVAT Act, the opportunity of personal hearing is mandatory. However, in the instant case, it is seen that the notice issued to the petitioner/dealer had returned with postal endorsement "that the premises has been closed". However, it is seen that the memo issued by the Endorsement Wing on the subsequent date i.e. 08.04.2014 was served on the Proprietrix in her residential address. Therefore, the first respondent being the Assessing Officer could have resorted to such procedure.

4.In any event, the cancellation of the Registration is a very serious matter as it involves civil consequences. Therefore, this Court is of the view that one more opportunity should be granted to the petitioner.

5.Accordingly, the Writ Petition is allowed, the impugned orders are quashed and the first respondent is directed to issue show cause notice, within a period of two weeks from the date of receipt of a copy of this order and after affording a reasonable opportunity to the petitioner, including the opportunity of personal hearing, the first respondent shall pass a fresh order in accordance with law and complete the assessment. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpa

To

1.The Assistant Commissioner (T)
Manali Assessment Circle
Kuralagam Annexure
Chennai 108.

2.The Commercial Tax Officer,
Group VI, Chennai Central Enforcement,

1 cc to The Special Government Pleader, (Taxes), sr.41916
1 cc to M/s.R.Senniappan, Advocate, sr.42313

W.P.No.12448 of 2014

ppa co
kra 08.08.2016