IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.6.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.18657 of 2016
and
WMP.No.16324 of 2016

M/s.Sri Maruthi Oil Industries
rep.by its Partner A.N.Valluvan ... Petitioner

Vs

The Commercial Tax Officer,
Palacode, Dharmapuri District. ... Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records of the respondent in TIN: 33983290423/2014-15 dated 5.5.2016 and quash the order passed therein.

For Petitioner : Mr.A.P.Srinivas

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a dealer in edible oil, groundnut oil, cake, bran, maize and food grains and is registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the petitioner challenges the order of assessment made by the respondent dated 5.5.2016 for the assessment year 2014-15.

3. Though several grounds have been raised in the writ petition, the learned counsel for the petitioner submitted that without affording a reasonable opportunity to the petitioner,

the impugned order has been passed. While admitting that the petitioner received the show cause notice dated 23.3.2016 and by letter dated 7.4.2016, the petitioner sought 15 days' time to submit a reply, it is the case of the petitioner that the Assessing Officer did not intimate the adjourned date and without affording an opportunity, the impugned order has been passed.

4. On the merits of the case, it is submitted that some turnover is assessed both under the Tamil Nadu Value Added Tax Act, 2006 as well as the Central Sales Tax Act as escaped turnover and that double taxation is not permissible. It is further submitted that even assuming that the petitioner had not submitted their objections, an opportunity of personal hearing ought to have been granted to the petitioner.

5. So far as the denial of a reasonable opportunity is concerned, it is seen that the petitioner, though sought time to submit a reply/objections to the notice dated 23.3.2016, failed to submit their objections. Therefore, if the petitioner seeks some indulgence, then they should be put on terms.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay a sum of Rs.2,00,000/- (Rupees two lakhs only) without prejudice to their rights and contentions before the respondent within a period of three weeks from the date of receipt of a copy of this order. In the event the payment is made, the petitioner is permitted to treat the impugned proceedings as a show cause notice and submit their objections within a period of two weeks therefrom, after which, the respondent shall afford an opportunity of personal hearing to the petitioner and pass fresh orders on merits and in accordance with law. If the petitioner fails to comply with the above condition imposed in this order within the time stipulated, then the benefit of this order will not enure to the petitioner and the writ petition will stand dismissed automatically without any further reference to this Court. No costs. Consequently, the above MP is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

rs

To

The Commercial Tax Officer,
Palacode,
Dharmapuri District.

+1cc to Mr.A.P.Srinivas, Advocate, S.R.No.29724
+1cc to the Special Government Pleader(T), S.R.No.29951

W.P.No.18657 of 2016
&
WMP.No.16324 of 2016

RV(CO)
CA(20/06/2016)