IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.25928 of 2015
and
M.P.No.1 of 2015

M/s.S.N.T.Leathers,
Rep. by its Proprietor,
No.266/8, Kose Kasim Sahib Street,
Vaniyambadi-635 751. .. Petitioner

Vs

The Assistant Commissioner (CT),
Vaniyambadi Assessment Circle,
Vellore District. .. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the respondent in his proceedings in TIN No.33524642177/2013-14 dated 06.02.2015 and quash the order passed therein and to direct the respondent to pass revised orders for the year 2013-14, in pursuant to the amendments to the Section 19(2)(v) of the TNVAT Act, 2006 as per Act No.5 of 2015 published by the Tamil Nadu Government and also based on the judgment of the Supreme Court of India reported in 20 VST 726 (SC) in the case of Suchitra components Limited vs. Commissioner of Central Excise by giving an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.C.Baktha Siromoni

For Respondent : Mr.S.Kanmani Annamalai
Special Government Pleader

ORDER

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader appearing for the respondent and with their consent, this Writ Petition is taken up for final disposal.

2.The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (TNVAT Act) has filed this Writ Petition, challenging the impugned proceeding which is an order of assessment for the year 2013-2014. The petitioner was issued with a notice on 15.12.2014 wherein the respondent proposed to reverse the input tax credit availed by the petitioner. The petitioner submitted his objections dated 02.01.2015 and pursuant to which, the respondent passed the impugned order. The only ground on which the petitioner has challenged the impugned proceeding is by contending that no opportunity of personal hearing was granted.

3.The learned Special Government Pleader appearing for the respondent submitted that the petitioner has stated that he would file a detailed objection and appear within thirty days, but did not do so. Therefore the authority have no objection to finalize the assessment. The stand taken by the authority is fully justified since the objection dated 02.01.2015 is bereft of particulars.

4.Considering the facts and circumstances of the case, this Court with a view to afford opportunity to the petitioner, is inclined to direct the respondent to consider the petitioner's objections and decide the matter after affording an opportunity of personal hearing. However, for doing so, this Court is of the view that the petitioner should be put on terms. Accordingly, there will be a direction to the petitioner to pay a sum of Rs.1,00,000/- (Rupees One Lakh only) to the respondent without prejudice to their rights, within a period of four weeks from the date of receipt of a copy of this order. If the same is remitted, then the petitioner is permitted to treat the impugned proceedings/assessment order as show cause notice and submit their objections within a period of fifteen days therefrom. On receipt of their objections, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to finalize the assessment in accordance with law. However, if the petitioner fails to remit the sum of Rs.1,00,000/- as directed by this Court within the time permitted, the benefit of the order will not be enured to the petitioner and the writ petition will stand automatically dismissed without further reference to this Court. However, this will not preclude the petitioner from filing an appeal against the impugned order.

5.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

cse

To

The Assistant Commissioner (CT),
Vaniyambadi Assessment Circle,
Vellore District.

+1 cc to the Special Government pleader Taxes
High Court chennai-104 sr.33555
+1 cc to Mr.C.Bakthasiromoni Advocate sr.25885

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