IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 24.6.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25960 of 2015

1 Tvl.Kalavathy Industries
Rep by its Proprietor K.Shanmugam No.24/3
Mannappa Mudali Street Old Washermanpet
Chennai 21 ... petitioner

versus

1 The Assistant Commissioner
(CT) Washermanpet I Assessment Circle No.
20 Kummalamman Koil Street Chennai 81

2 The Commercial Tax Officer
Washermanpet I Assessment Circle No.20
Kummalamman Koil Street Chennai 81 ... respondents

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records on the files of the 2nd respondent in TIN.33211220430/2013-14 dt 3.8.2015 and connected proceeding of the 1st respondent in TNVAT/33211220430/13-14 dt 4.8.2013 and quash the same as being without jurisdiction authority of law and contrary to the principles of natural justice.

For petitioner ... Mr.R.Senniappan
For respondents ... Mrs.Kanmani Annamalai,
Additional Government Pleader

O R D E R

Heard Thiru.R.Senniappan, learned counsel for the petitioner and Tmt.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2. With the consent of both the sides, the Writ Petition is taken up for disposal.

3. The petitioner is a dealer in Stainless steel utensils and registered on the file of the first respondent under the

provisions of Tamil Nadu Value Added Tax, 2006. The petitioner has challenged the best judgment assessment made by the first respondent for the turnover estimated for the month of June 2013 and the demand notice issued by the second respondent dated 3.8.2015, demanding tax to the tune of Rs.1,81,250/- for the year 2013-14.

4. The case of the petitioner is that prior to the passing of best of judgment assessment dated 4.8.2013, he was not issued any notice. Therefore, on receipt of the said order, immediately, he submitted a representation on 12.8.2013 stating that the assessment order has been passed without affording an opportunity to him to file his objections. The petitioner thereafter appeared before the first respondent, who has accepted the compounding fee of Rs.2,000/-. It is not in dispute that the petitioner has been periodically filing returns for the subsequent period which have been accepted, and the petitioner has been remitting tax.

5. Now, the only issue is with regard to the assessment year 2013-14, for which the second respondent has not completed the assessment for the whole year and the assessment order dated 4.8.2013 is only in receipt of estimated turnover for the month of June 2013. Therefore, the petitioner would contend that in spite of receipt of that, the second respondent has been issuing demands without completing the assessment for the whole of the year.

6. The learned Additional Government Pleader on instructions submitted that the second respondent may be directed to complete the assessment for the year 2013-14, after affording an opportunity to the petitioner.

7. In the light of the above, the Writ Petition is disposed of by directing the second respondent to complete the assessment for the whole of the year 2013-14, after issuing notice to the petitioner and affording an opportunity of personal hearing. In the light of the said direction, the impugned demand raised by the second respondent shall not be enforced. The above direction shall be complied with within a period of eight weeks from the date of receipt of a copy of this order.

8. The Writ Petition is disposed of with the above direction. No costs. Consequently, M.P.No.2/2015 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1 The Assistant Commissioner,
(CT) Washermanpet I Assessment Circle No.
20 Kummalamman Koil Street, Chennai 81

2 The Commercial Tax Officer,
Washermanpet I Assessment Circle No.20
Kummalamman Koil Street, Chennai 81.

+1 cc to Mr.R.Senniappan Advocate sr 35359
+1 cc to Special Government Pleader (T) sr.35483

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aa21/07/2016