IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.06.2016

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.19119 of 2016
&
W.M.P.Nos.16650 & 16651 of 2016

M/s.Sri Cotton Industries
Rep. By its Proprietrix - S.Devaki
No.7/47/8, Elango Adigal Street
Vadalur - 607 303
Cuddalore District ...Petitioner

Vs.

The Commercial Tax Officer
Cuddalore Taluk Assessment Circle
Cuddalore
Cuddalore District ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN: 33474402566/2011-12 dated 14.03.2016 and quash the same.

For Petitioner : Mr.R.Hemalatha

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

ORDER

Heard Mr.R.Hemalatha, learned counsel for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader, accepting notice for the respondent. With the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a dealer under the provisions of Tamil Nadu Value Added Tax on the file of the respondent, has filed this writ petition challenging the impugned order of revision of assessment passed by the respondent solely on the ground that the petitioner has not submitted any objections.

3. It is the specific case of the petitioner that on receipt of show-cause notice dated 16.10.2015, the petitioner sent a representation on 30.11.2015 by speed post requesting extension of time till December 2015 for submitting his objections. The postal receipt has been filed, but, however there is no acknowledgment. Thereafter, on 29.12.2015, the petitioner has sent his objection by speed post. The postal receipt for the same also filed but without any postal acknowledgment. However, the respondent has proceeded to confirm the proposal in the show-cause notice dated 16.10.2015 solely on the ground that the petitioner has not filed any objection. That apart, there is no opportunity of personal hearing granted . From the impugned order of assessment, it is seen that the proceedings were initiated to revise the assessment on the basis of an audit conducted by the Enforcement Wing Officers.

4. Therefore, this Court is of the view that one more opportunity could be granted to the petitioner especially when the respondent has proposed to revise the total and taxable turnover based on the defects pointed out by the Enforcement Wing officials. However, for the said reason, this Court is not inclined to set aside the impugned order, but directs the petitioner to treat the impugned notice as show-cause notice and submit his objections along with documents, if any, in person to the respondent within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent shall pass fresh orders on merits and in accordance with law.

5. The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

gpa

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer
Cuddalore Taluk Assessment Circle
Cuddalore, Cuddalore District.

+ 1 cc to M/s.R.Hemalatha, Advocate Sr 30634

+ 1 cc to The Spl.Govt.Pleader (Taxes), High Court, Madras-104.
Sr 30371

KR/20/6/16

W.P.No.19119 of 2016 &
MP.No.1 & 2 of 2015