

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19634 of 2016

&

WMP No.16994 of 2016

Tvl.Kavipurani Leathers
Rep by its Prop K.Babu
No.75 Sidco Industrial Estate
Ranipet 632 403
Vellore District.

... Petitioner

Vs

1. The State of Tamil Nadu
Rep by its Secretary to Government
Department of Commercial
Taxes and Registration
Fort St. George, Chennai 600 009.

2. The Commissioner of Commercial Taxes
2nd Floor, Elilagam
Chepauk, Chennai 600 005.

3. The Commercial Tax Officer
SIPCOT Assessment Circle
Ranipet Vellore District

4. The Commercial Tax Officer
Enforcement Wing
Thirupathur.

... Respondents

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorarified mandamus to call for the records of the 3rd respondent in his proceedings in TIN No. 33154364039/ 2014-15 dt 14.9.2015 received by the petitioner on 18.9.2015 passed by the 3rd respondent quash the same and to direct the 3rd respondent to provide the annexure II of the other dealers and invoice copies of the sellers available with the 3rd respondent and to accord a personal hearing after issuing notice and then to pass fresh order if any for the assessment year 2014-2015 and to return the cheques for advance tax of Rs.2,10,025-00 and Rs.2,000-00 as compounding fees at the time of inspection.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents : Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

Heard Mr.M.Md.Ibrahim Ali, learned Counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned counsel appearing on behalf of the respondents and with the consent of learned counsel appearing on either side, 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 act, 2006, (TN VAT Act), has filed this Writ Petition, challenging the order of assessment dated 14.09.2015, for the assessment year 2014-15. The third respondent issued a show cause notice to the petitioner on 16.06.2015, stating that on verification of other dealers returns in Annexures I & II from the website of the Department, it was found that the petitioner has suppressed the purchases effected from the few dealers, during the year 2014-15. Furnishing those details, the petitioner was called upon to submit their objections. The petitioner on 08.09.2015, submitted their objections and the respondent found that the objections were partly correct and for the remaining balance, assessed the petitioner to tax and completed the assessment. Apart from that the proposal to levy penalty was also confirmed.

3.From the perusal of the impugned order, it is seen that the third respondent-Assessing Officer has not given reasons as to contentions which were raised by the petitioner were acceptable and the contentions which could not be acceptable and no reasons were found as to why the third respondent did not accept the entire objections raised by the petitioner. Therefore, if the third respondent found that the objections were partially correct, and in his opinion certain portions of the objections were not tenable, then to that extent the third respondent is bound to assign reasons. Before doing so, the third respondent ought to have afforded an opportunity of personal hearing.

4.In the light of the above, the Writ Petition is partly allowed, in so far as it relates to rejection of the petitioner's objection partly and to that extent, the third respondent is directed to afford an opportunity of personal hearing to the petitioner and pass fresh orders on merits and in accordance with law. The above direction be complied with

by the third respondent within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Rpa

To

1. The Secretary to Government
Department of Commercial
Taxes and Registration
State of Tamil Nadu
Fort St. George, Chennai 600 009.
2. The Commissioner of Commercial Taxes
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Chepauk, Chennai 600 005.
3. The Commercial Tax Officer
SIPCOT Assessment Circle
Ranipet Vellore District
4. The Commercial Tax Officer
Enforcement Wing
Thirupathur.

+1cc to Mr.M.Md.Ibrahim Ali, Advocate, S.R.No.31187
+1cc to the Special Government Pleader(T), S.R.No.32504

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AK(CO)
CA(22/06/2016)

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