IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29409 of 2015

and M.P.No.1 of 2015

Tvl.Alba Tanners Exporters [Petitioner]
Rep. by its Partner Thiru.A.Afroze Ahmed
112/1A Chinnavarikkam Village Thiruthipet
Vellore District.

Vs

The Commercial Tax Officer
Gudiyatham (West) Assessment Circle
Ground Floor No.98/122 Gandhi Road
Nadupettai, Gudiyatham-632 602. [Respondent]

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of certiorari calling for the records in respect of the impugned order TIN No.33354342686/ 2014-2015 dated 19.6.2015 of the respondent under the Tamil Nadu Value Added Tax Act 2006 quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.Adthiya Reddy, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent. With the consent of the learned counsel on either side, the writ petition itself is taken up for disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (the TNVAT Act) on the file of the respondent. The order that has been challenged in this writ petition is an assessment order dated 19.06.2015 for the assessment year 2014-15.

3. The petitioner has challenged the impugned order on the ground that the respondent issued a notice dated

20.05.2015 stating that on scrutiny of returns filed by the buyers of the petitioner's business, it was ascertained that the petitioner has not disclosed two turnovers (1) M/s F.R.International vide. Invoice No.118 dated 03.12.2014 and No.122 dated 12.01.2015 and therefore, the respondent proposed to reject the turnover and assessed the turnover to the Best of Judgment under Section 27(1) of the TNVAT Act.

4. The petitioner submitted a detailed objection dated 29.05.2015. On a perusal of the same, it is seen that the petitioner's have denied the entire allegations and stated that the so called invoices are all bogus bills and they requested copies of those bills and invoices to be furnished to them. That apart, an opportunity of personal hearing was also sought for in their objection dated 29.05.2015. A copy of the said objection has been filed in the typed set of papers, which runs to 4 pages. Unfortunately, the respondent, while completing the assessment, in a three line order, has rejected the petitioner's case, stating that the copies of the bills filed by the dealer were relevant to the year 2011-12 and not relevant to 2014-15. Challenging the same, the petitioner has come before this Court.

5. Firstly the respondent misdirected in considering the scope of the petitioner's objections. Without giving due attention to what has been stated in the objection and without affording an opportunity of personal hearing to the petitioner, the respondent could not finalise the assessment. Having done so, the impugned calls for interference.

6. Accordingly, the writ petition is allowed. The impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall furnish copies of documents sought for by the petitioner and thereafter grant further time to the petitioner to submit their objections and then after affording an opportunity of personal hearing to the petitioner, complete the assessment, in accordance with law.

No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Gudiyatham (West) Assessment Circle
Ground Floor No.98/122 Gandhi Road
Nadupettai, Gudiyatham-632 602.

1 cc to The Special Government Pleader,(Taxes), sr.40399

W.P.No.29409 of 2015

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kra 29.07.2016