IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29772 of 2015 &

M.P.No.1 of 2015

1 Tvl.P.S.N.Hardwares [PETITIONER]
Rep by its Proprietor

Vs

1 The Commercial Tax Officer [RESPONDENT]
Attur (Town) Assessment Circle
Attur.

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certioirarified Mandamus to call for the records on the files of the respondent in TIN.33723141380/2009-10 dt 1.9.2014 and quash the same as being contrary to the principles of natural justice and that of the principle laid down by this Court in the judgment reported in (2007) 295 ITR 303 (Mad) (V.Selladurai Vs. Chief Commissioner of Income Tax (OSD) and another) and further direct the respondent to pass order afresh in accordance with Section 22(4) of the TNVAT Act 2006.

For Petitioner : Mr.R.Senniappan

For Respondents : Mr.V.Haribabu
Additional Govt.Pleader

O R D E R

Heard Mr.R.Senniappan, learned Counsel appearing for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader appearing on behalf of the respondent and with the consent of learned counsel appearing on either side, the 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 Act, 2006 [TNVAT Act], has filed this Writ Petition, challenging the order of assessment dated 01.09.2014, for the assessment year 2009-10.

3.The petitioner has challenged the impugned order on the ground of violation of principles of natural justice.

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4.The said contention is outrightly be rejected for the simple reason that the petitioner did not file any objection to the Pre-Revision Notice. Therefore, the petitioner cannot complain that the order has been passed in violation of principles of natural justice.

5.The learned counsel for the petitioner submitted that the petitioner may be granted one more opportunity to appear before the authority and place all the materials.

6.However, considering the fact that the petitioner failed to file objections at the first instance, this Court would impose condition on the petitioner to avail an opportunity.

7.Accordingly, the petitioner is directed to pay 15% of the tax, as quantified and demanded in the impugned assessment order dated 01.09.2014, within a period of three weeks from the date of receipt of a coy of this order. If such amount is remitted to the respondent, then the petitioner will be entitled to treat the impugned proceedings as a show cause notice and submit their objections within a period of two weeks therefrom, after which the respondent shall consider the petitioner's objection and after affording an opportunity of personal hearing, proceed to complete the assessment in accordance with law.

The Writ Petition is dismissed with the above observations. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1 The Commercial Tax Officer
Attur (Town) Assessment Circle
Attur.

+1 cc to Mr.R.Senniappan, Advocate,sr.40550

+1 cc to Govt.Pleader,sr.40750.

lrs(co)
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