IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.29865 of 2015 &
M.P.No.1 of 2015

S.M.Leathers [PETITIONER]
Rep by its Proprietor
K.H.Khaleelur Rehman

Vs

The Commercial Tax Officer
Ranipet (SIPCOT) Assessment Circle
Ranipet 632 401. [RESPONDENT]

Prayer: The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certioirari to call for the records on the files of the respondent herein in TIN:33114364061/2015-16 dated 24.08.2015, and quash the same.

For Petitioner : Mr.N.Inbarajan

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

O R D E R

Heard Mr.N.Inbarajan, learned Counsel appearing for the petitioner, Mr.V.Haribabu, learned Additional Government Pleader appearing on behalf of the respondent and also perused the written instructions given by the respondent. With the consent of learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

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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 24.08.2015, for the assessment year 2015-16.

3.It is submitted by the learned counsel for the petitioner that when Pre-Revision Notice was issued to the petitioner, the petitioner pointed by their reply dated 24.07.2015, which was served on the Office of the respondent, as could be seen from the acknowledgment in the Letter Delivery Book, that assessment for which the proposal relates to is not yet over and no assessment under section 27 of the TNVAT Act and also levy penalty under section 27(3) of the

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TNVAT Act could be made in the middle of the running financial year.

4.Though such objection was sent by the petitioner, the respondent stated that no objection was received and proposed to finalise the assessment on the basis of the total and taxable turnover of suppression as determined by the Enforcement Wing Officers. Therefore, the respondent erred in passing the assessment order, by referring to the Enforcement Report that too when the assessment year is not yet over.

5.Accordingly, the Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the respondent to initiate fresh action accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy/

Sub Assistant Registrar

Rpa

To

The Commercial Tax Officer
Ranipet (SIPCOT) Assessment Circle
Ranipet 632 401.

+1cc to M/s. N. Inbarajan, Advocate, S.R.No.40584
+1cc to the Special Government Pleader, S.R.No.30744

RK(CO)
EU(05/08/2016)

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