IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.31432 of 2015 &
M.P.Nos.1 and 2 of 2015

M/s.K.M.S.Traders (Defunct),
Rep. by its Proprietor - S.Mohamed Hussain,
No.19, North Street,
B.P.Agraharam,
Erode - 638 006. .. Petitioner

Versus

The Assistant Commissioner (CT),
Erode Rural Assessment Circle,
Erode. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN 33442906309/13-14, dated 20.11.2014 quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.Manokaran Sundaram
Additional Government Pleader

O R D E R

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader, appearing for the respondent.

2. The petitioner-Trader, which is a registered dealer under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred as "TNVAT Act") and Central Sales Tax Act, 1956 (hereinafter referred as "CST Act"), has filed this Writ Petition, challenging the order of assessment passed under the provisions of TNVAT Act, for the year 2013-2014, dated 20.11.2014.

3. The petitioner contention is that the pre-assessment notice as well as the impugned assessment order were never served on the petitioner and only after obtaining certified copy, the petitioner is before this Court.

4. Further, the case of the petitioner is that the Registration Certificate of the petitioner has been cancelled with effect from 15.07.2014 and the original Registration Certificates both under the TNVAT Act and the CST Act have been surrendered to the Office of the respondent on 22.07.2014 and endorsement has been obtained by them in the Letter Delivery Book. With these facts, the petitioner is before this Court.

5. On a perusal of the impugned proceedings, it is seen that notice of assessment was sent to the dealer on 27.10.2014 by RPAD and it returned with the postal endorsement, "No such address". Therefore, by following the procedure under Rule 19(c) & (d) of TNVAT Rules, 2007, the respondent affixed the notice on the last known place of business and proceeded. Therefore, there is no procedural infirmity in the manner in which the respondent has resorted to the service of notice. Therefore, this Court is not inclined to accept the case of the petitioner on the ground that there is violation of principles of natural justice. However, as the assessment has been completed ex-parte, this Court is of the view that one more opportunity can be granted to the petitioner subject to conditions.

6. Accordingly, the petitioner is directed to pay 15% of the disputed tax within a period of six weeks from the date of receipt of copy of this order. If the petitioner effects such payment, simultaneously, the petitioner shall be entitled to submit their objections by treating the impugned proceedings as a show-cause notice. However, if the petitioner fails to pay the amount within the time fixed by this Court, the benefit of this order will not enure to the petitioner and the Writ Petition shall stand automatically dismissed, leaving it open to the respondent to proceed in accordance with law.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Erode Rural Assessment Circle,
Erode.

+1cc to M/S.R.Hemalatha, Advocate Sr.42996
+1cc to the Special Government Pleader Sr.43250

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srg 22/08/2016