IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.7.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.24569 OF 2016 & WMP.NO.20956 OF 2016

Tvl.Sri Kumar Textiles, rep.
by its Partner M.Natarajan ...Petitioner

Vs

The Assistant Commissioner (CT),
Avinashi Assessment Circle,
Avinashi. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TIN No.33672084641/2011-12 dated 3.6.2016 and quash the same.

For Petitioner : Mr.S.Raveekumar
For Respondent : Mr.S.Kanmani Annamalai, AGP

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, has challenged the assessment order for the year 2011-12 on two grounds namely (i) that an opportunity of personal hearing was not granted and (ii) that the representation given by the petitioner on 10.6.2016 after receipt of the show cause notice dated 4.5.2016 has not been considered.

3. The representation given by the petitioner on 10.6.2016 is much after the impugned order was passed. Therefore, the contention that the respondent should have considered the objections or the request made in the said communication, cannot be countenanced. However, it appears that the petitioner closed down the business and that the petitioner would be able to establish before the

Authority concerned that the allegations made against them are false, if the matter is remitted back for fresh consideration. Hence, this Court is inclined to grant one more opportunity to the petitioner to put forth their case before the Authority concerned, however subject to a condition.

4. Accordingly, the writ petition is disposed of with by directing the petitioner to pay 15% of the tax as determined in the impugned assessment order within a period of four weeks from the date of receipt of a copy of this order. If the same is remitted, then the petitioner will be entitled to treat the impugned assessment order as a show cause notice and submit their objections. In the objections, the petitioner can also seek copies of documents, which would be required by them to contest the matter effectively and if such a request is made, the respondent shall consider the same and after receipt of the objections, the respondent afford an opportunity of personal hearing to the petitioner and proceed to complete the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

RS

To

The Assistant Commissioner (CT),
Avinashi Assessment Circle, Avinashi.

+1 CC to Mr.S.Raveekumar, Advocate Sr.No.39806

+1 CC to Government Pleader Sr.No.40202

WP.No.24569 of 2016&
WMP.No.20956 of 2016

RK(CO)
KP(29.07.2016)