IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.24681 of 2016 &

W.M.P.No.21067 of 2016

Kavipriya Agencies,
Rep. by its Proprietor Mr.Ramalingam,
No.3/1, AGES Nagar, 1st Street,
Pukkulam Road,
Thiyagadurgam,
Kallakurichi Taluk,
Villupuram District. .. Petitioner

Versus

The Commercial Tax Officer (Addl.) FAC,
Kallakurichi,
Villupuram District. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records of the respondent in connected with the impugned order passed by him in TIN33384783098/2013-14, dated 31.12.2015 and TIN33384783098/2013-14, dated 01.03.2016 and quash the same

For Petitioner : Mr.G.Ilamurugu

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.G.Ilamurugu, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of respondent. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

2. The petitioner has challenged the order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred as 'TNVAT Act'), which is a

revision of assessment under Section 27(1)(a) of the TNVAT Act.

3. Admittedly, the petitioner did not submit their objections to the pre-revision notice dated 19.10.2015, nor availed the opportunity of personal hearing, which was afforded to the petitioner, by notice, dated 14.12.2015. Therefore, under normal circumstances, this Court would have rejected the petitioner's prayer to quash the impugned proceedings and left it open to the petitioner to work out their remedies available under the TNVAT Act.

4. However, considering the submissions made in paragraph No.4 of the affidavit filed in support of the Writ Petition, wherein, the petitioner has stated that the petitioner is a senior citizen, aged about 81 years and suffered with paralysis attack and has been hospitalized for the past one year and therefore, he could not submit objections. Only, on this ground alone, this Court is inclined to grant relief to the petitioner.

5. Accordingly, the Writ Petition is disposed of, by directing the petitioner to treat the impugned proceedings as a show-cause notice and submit their objections, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the respondent shall afford an opportunity of personal hearing, in which, the petitioner is entitled to appear through his Authorized representative, thereafter, the respondent shall finalize the assessment in accordance with the provisions of TNVAT Act.

6. Since this Court has directed the impugned proceedings to be treated as a show-cause notice, the tax as computed in the impugned order and the penalty as quantified therein demanded from the petitioner shall be kept in abeyance, till fresh orders are passed in terms of the above direction. However, if the petitioner fails to submit the objections within a period of two weeks from the date of receipt of a copy of this order, then it is open to the respondent to enforce the impugned order.

The Writ Petition is disposed of accordingly on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

r n s

To

The Commercial Tax Officer (Addl.) FAC,
Kallakurichi,
Villupuram District.

1 cc to Mr.S.Sivakumar, Advocate, sr.40187
1 cc to Special Government Pleader,(Taxes), sr.40396

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msm co
kra 27.07.2016