IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:21.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25373 of 2016
and
WMP.No.21673 of 2016

M/s.Orange Motors,
Rep. by its Proprietor, Mr.P.Krishna Teja
No.6, Jawaharlal Nehru Road,
Thirumangalam, Annanagar,
Chennai - 600040. .. Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by the
Secretary to Government,
Department of Commercial Taxes
And Religious Endowments,
Fort St. Georege - 600 009.

2.The Assistant Commissioner (CT)
Nolambur Assessment Circle,
Chennai - 600 049.

3.The Commercial Tax Officer,
Nolambur Assessment Circle,
Chennai - 600 049. .. Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the impugned proceedings of the 2nd respondent in TIN: 33211351671/2013-2014 and quash the impugned order dated 27.01.2016 as passed contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006 and also against the principles of natural justice and to further direct the second respondent to grant a reasonable opportunity of being heard to the petitioner as contemplated under TNVAT Act in accordance with law and on merits.

For Petitioner : Mr.T.C.Sajith Babu

For Respondents: Mr.V.Haribabu
Additional Government Pleader

ORDER

Heard Mr.T.C.Sajith Babu, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner, who is a registered dealer on the file of the respondents under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has challenged the order of assessment for the year 2013-2014.

3.The learned counsel for the petitioner elaborately made submissions on the factual aspects and pointed out that there are various inherent defects in the impugned assessment order and therefore, requested this Court to interfere with the said order. It is seen that the impugned assessment order was passed on 27.01.2016 and the petitioner did not file an appeal within the time permitted nor approached this Court earlier and after about 7 months, the petitioner is before this Court. That apart, the petitioner did not file any objections to the pre-revision assessment notice dated 22.05.2015 in spite of lapse of six months. Therefore, there can be no error attributed to the respondent in the manner in which he has finalised the assessment as the petitioner failed to place facts before the authority. The learned counsel for the petitioner pleads that because the Sales Tax Consultant could not take up the matter owing to the demise of his father, the petitioner has approached this Court belatedly and prays for one more opportunity may be granted to go before the Assessing Officer and explain all the facts.

4.In have heard the learned Additional Government Pleader for the respondents on the above submissions.

5.Taking into consideration that the petitioner only pleads for one more opportunity, this Court is inclined to grant the same, but subject to certain conditions. Accordingly, the petitioner is directed to pay 15% of the tax as demanded in the impugned order, within a period of three weeks from the date of receipt of a copy of this order. If the petitioner remits the said amount, then, the petitioner would be entitled to treat the impugned proceeding as a show cause notice, submit their objections to the 2nd respondent within a period of two weeks thereafter. On receipt of the objection, the 2nd respondent shall afford an opportunity of personal hearing to the petitioner and proceed to pass fresh orders on merits and in accordance with law. If the petitioner defaults in payment of the 15% of the tax amount as per the above direction within the time permitted, the benefit of this order will not enure to the petitioner and the writ petition will stand automatically dismissed, leaving it open to the respondents to proceed in accordance with law.

6.With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

sgl

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The State of Tamil Nadu,
Represented by the
Secretary to Government,
Department of Commercial Taxes
And Religious Endowments,
Fort St. Georege - 600 009.

2.The Assistant Commissioner (CT)
Nolambur Assessment Circle,
Chennai - 600 049.

3.The Commercial Tax Officer,
Nolambur Assessment Circle,
Chennai - 600 049.

+ 1 cc to Mr.T.C.Sajith Babu, Advocate Sr 41211

+ 1 cc to The Spl.Govt.Pleader (Taxes), Chennai-104. Sr 41508

KR/28/7/16

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