IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.8.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.26717 of 2016 & WMP.No.22939 of 2016

M/s.Parthiba Traders, rep.by
its Partner S.Parthiba ...Petitioner

Vs

The Assistant Commissioner (CT),
Gugai Assessment Circle,
Gugai, Salem. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records comprised in impugned order in TIN/33632720110/2014-15 dated 1.6.2016 on the file of the respondent, quash the same and consequently direct the respondent to give opportunity to the petitioner before passing the assessment order.

For Petitioner : Mr.S.Yashwanth

For Respondent : Mr.S.Manohar Sundaram, AGP

ORDER

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

2. The petitioner is a dealer in selling sago, starch and thippi and a manufacturer of sago and starch products, registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the petitioner challenges the order of assessment for the year 2014-15 on two grounds namely that the petitioner was not granted required time to produce tax paid certificates for the local commission sales and that an opportunity of personal hearing was not granted.

3. Under normal circumstances, this Court would have accepted the submission of the learned counsel for the petitioner. But, on the facts of the present case, it appears that even after more than a year, the petitioner did not produce relevant documents. Therefore, the respondent was fully justified in completing the assessment on the lines mentioned in the impugned order.

4. However, the learned counsel for the petitioner submits that if the petitioner is granted some reasonable time, they will produce all the documents before the respondent and that the petitioner seeks one opportunity more particularly when the opportunity of personal hearing was not granted.

5. Considering the peculiar facts and circumstances of the case, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of four weeks from the date of receipt of a copy of this order. If such payment is made, then the petitioner will be entitled to treat the impugned proceedings as a show cause notice and submit their objections along with remittance challan and after receipt of the objections along with remittance challan, the respondent shall afford an opportunity of personal hearing to the petitioner and proceed to redo the assessment in accordance with law, within a period of four weeks thereafter. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT), Gugai Assessment Circle, Gugai, Salem.

+1cc to M/S.S.Yashwanth, Advocate Sr.43341
+1cc to the Government Pleader sr.43590

W.P.No.26717 of 2016 &
WMP.No.22939 of 2016

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srg 22/08/2016