IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.38058 of 2016 &
W.M.P.No.32618 of 2016

Tvl.Microbasia
Rep. by its Partner
R.Srinivasan ... Petitioner

vs.

The Commercial tax Officer
Amaindakarai Assessment Circle
No.F/50, Anna Nagar East
1st Avenue
Chennai - 600 102. ... Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, Calling for the records of the Respondent in TIN/33441025964/ 2015- 2016 dated 25.07.2016 and quash the same as arbitrary and illegal.

For Petitioner : Mr.V.Ramanan

For Respondent : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader

O R D E R

Heard Mr.V.Ramanan, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondent. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act] and Central Sales Tax Act, 1956 [CST Act], has challenged the order of assessment dated 25.07.2016, for the assessment year 2015-16.

3.On a reading of the impugned assessment order, it is evidently clear that though the petitioner had received the notices issued by the respondent dated 12.01.2016, 22.03.2016 and 01.07.2016, they did not care to respond to the notices. Therefore, the respondent has completed the assessment, by confirming the proposal in the notices.

4.The manner in which the respondent has passed the impugned order cannot be faulted, as it is a case where the petitioner failed to avail the opportunity granted to them. This is sufficient to dismiss the Writ Petition and leave it open to the petitioner to workout the remedies under the provisions of the VAT Act. However, the learned counsel for the petitioner submitted that the petitioner is a small dealer and one more opportunity may be granted to the petitioner to go before the Assessing officer.

5.I have heard the learned Additional Government Pleader on the above submissions.

6.Considering the peculiar facts and circumstances of the case, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer, subject to conditions.

7.Accordingly, there will be a direction to the petitioner to pay 15% of the tax demanded in the impugned order, within a period of three weeks from the date of receipt of a copy of this order. If the tax amount is paid within the time permitted, then the petitioner will be entitled to treat the impugned proceedings as a show cause notice and submit their objections along with records, within a period of fifteen days therefrom, after which the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed by this Court in this order, the benefit of this order will not enure to them and the Writ Petition would stand automatically dismissed. The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

rpa

To

The Commercial tax Officer
Amaindakarai Assessment Circle
No.F/50, Anna Nagar East
1st Avenue
Chennai - 600 102.

1 cc to Mr.P.R. Kumar, advocate, Sr. 62014
1 cc to Government Pleader, Sr. 62655

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MG (CO)
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