IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.8.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.27635 to 27638 of 2016

& WMP.Nos.23824 to 23827 of 2016

Tvl.Shafi Traders, rep. by
its Proprietor ...Petitioner

Vs

The Assistant Commissioner (CT),
Korattur Assessment Circle,
Chennai-50. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the orders of the respondent respectively in TIN/33751444106/2012-13, TIN/33751444106/2013-14, TIN/33751444106/2014-15 and TIN/33751444106/2015-16 dated 29.6.2016 and quash the same.

For Petitioner in all the WPs : Mr.Adithya Reddy
For Respondent in all the WPs : Mrs.Vasudha Thiagarajan, AGP

COMMON ORDER

Mrs.Vasudha Thiagarajan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the file of the respondent. The challenge in these writ petitions is to the assessment orders passed under the said Act for the years 2012-13 to 2015-16.

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3. The petitioner challenges the impugned orders on the ground that they have been passed in violation of the principles of natural justice, in view of the fact that the petitioner did not have an opportunity to put forth their objections to the pre-revision notices dated 6.6.2016 and as the same were not served on the petitioner. The case of the petitioner is that Rule 19 of the Tamil Nadu Value Added Tax Rules, 2007 has laid down the mode of service of notice or order on the assessee and that the pre-assessment notices dated 6.6.2016 were not served on the dealer as provided under the said Rules. It is further

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submitted that the impugned orders of assessment were served in the residence of the petitioner.

4. If that be case, nothing prevented the respondent in serving the pre-assessment notices in the same manner. On a perusal of the impugned orders, it is seen that the respondent has not stated as to the reason for return of the pre-assessment notices, but has merely stated that the notices sent by registered post were returned by the Postal Authorities. If the notices have been returned for vallid reasons by the Postal Authorities, then the respondent ought to have resorted to the procedure under Rule 19 of the said Rules. Without doing so, the respondent has arbitrarily completed the assessments. Therefore, the impugned orders, which have been passed ex parte, would require interference. However, for that reason, this Court does not propose to set aside the impugned orders.

5. In the light of the above, these writ petitions are disposed of with a direction to the petitioner to treat the impugned orders as show cause notices. The petitioner is further directed to submit their objections within a period of 15 days from the date of receipt of a copy of this order. After receipt of the objections from the petitioner, the respondent shall afford an opportunity of personal hearing to the petitioner and if any documents are required to prove the genuineness of the transaction, then the respondent shall call for such documents and thereafter redo the assessment in accordance with law. Since this Court has directed the impugned orders to be treated as show cause notices, the question of demanding tax and penalty as determined in the impugned orders does not arise and it shall await fresh orders to be passed in terms of the above directions. No costs. Consequently, the above WMPs are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To
The Assistant Commissioner (CT), Korattur Assessment Circle, Chennai-50.

+1 cc to Spl.Govt.Pleader,sr.45428

+1 cc to Mr.Aditya Reddy, advocate,sr.10652.

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krd 19/8

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