

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.8.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.27760 of 2016 & WMP.No.23940 of 2016

M/s.Indhu Distributors, rep.by
its Proprietor Kumari.Indumathi ...Petitioner

Vs

- 1.The Commercial Tax Officer,
Mannargudi, Thiruvarur.
- 2.The Deputy Commissioner (Sales
Tax), Tanjoor, Tanjoor District.
- 3.The Sub-Registrar,Office of the Sub Registrar,
Mannargudi.
- 4.The Village Administrative Officer,
Ramasamy Kattalai, Thiyaga
Samuthiram, Papanasam.
- 5.The Village Administrative Officer,
Mannargudi. ...Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of a Writ of Certiorari to call for the
records of the 1st respondent in connection with
TIN:33593863277/2013-14 by his order dated 6.10.2015 and quash
the same as illegal and improper.

For Petitioner : Mr.S.Kingston Jerold

For Respondents 1 & 2 : Mrs.Vasudha Thiagarajan, AGP

For Respondents 3 to 5: Mr.K.J.Sivakumar, GA

ORDER

Mrs.Vasudha Thiagarajan, learned Additional Government Pleader accepts notice for respondents 1 and 2. Mr.K.J.Sivakumar, learned Government Advocate accepts notice for respondents 3 to 5. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The order challenged in this writ petition is an assessment order for the year 2013-14.

3. The petitioner would contend that they could not submit their objections to the pre-revision notice dated 17.8.2015, since the petitioner's father, who was taking care of the business, had suddenly fallen sick and two representations were also given on 4.9.2015 and 23.9.2015. However, because of the circumstances beyond the control of the petitioner and being a lady, she could not submit the objections in time and therefore, the assessment has been completed ex parte.

4. Learned counsel for the petitioner submits that they have sufficient records to prove the transactions and the allegation made against the petitioner is factually incorrect and ultimately prays that one more opportunity may be granted to the petitioner to go before the Assessing Officer and explain the facts.

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

6. Taking note of the fact that the petitioner had earlier requested for grant of time to submit their objections and as it is stated that they could not submit their objections due to circumstances beyond their control, this Court deems it appropriate to grant one more opportunity to the petitioner.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax before the first respondent within a period of three weeks from the date of receipt of a copy of this order. On such payment, the petitioner will be entitled to treat the impugned proceedings as a show cause notice. The petitioner shall submit their objections within two weeks thereafter. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in

accordance with law. However, if the petitioner fails to pay 15% of the disputed tax within the time stipulated, this order will not enure to the benefit of the petitioner and the writ petition will be dismissed leaving it open to the petitioner to work out their remedies in accordance with the provisions of the said Act. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

- 1.The Commercial Tax Officer,
Mannargudi,
Thiruvarur.
- 2.The Deputy Commissioner (Sales Tax),
Tanjoor, Tanjoor District.
- 3.The Sub-Registrar,
Office of the Sub Registrar,
Mannargudi.
- 4.The Village Administrative Officer,
Ramasamy Kattalai, Thiyaga
Samuthiram, Papanasam.
- 5.The Village Administrative Officer,
Mannargudi.

+1cc to Mr.Sd.Kingston Jerold, Advocate Sr.45129
+1cc to the Government Pleader Sr.45911

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srg 08/09/2016