IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.28529 to 28531 of 2016
and W.M.P.Nos.24633 to 24368 of 2016

M/s. Jaya Lakshmi Agency,
Rep. By its Proprietor,
Now at No.333, Lloyds Road,
Ground Floor, Royapettah,
Chennai - 600 014 ... Petitioner in all W.Ps.

Versus

The Commercial Tax Officer,
Royapettah Assessment Circle,
No.46, Greenways Road,
Chennai - 600 028 .. Respondents in all W.Ps.

Prayer:- Petitions filed under Article 226 of the Constitution of India, seeking for the issuance of Writs of Certiorari to call for the records of the respondent in TIN No.33530862906/2012-13, 2013-14 and 2014-15, all dated 11.03.2016, quash the same as illegal, arbitrary and contrary to the statutory provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner in all W.Ps. :Mr. V.Sundareswaran
For Respondents in all W.Ps.:Mrs. Vasudha Thiagarajan, A.G.P.,

C O M M O N O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents, in all the writ petitions. By consent of the learned counsel for both sides, the writ petitions are taken up for final disposal at the admission stage itself.

2. The petitioner, in these writ petitions, is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006, and they are the stockists in various goods, such as soaps, edible oil, etc., The respondent issued pre-revision notices, in respect of the three years, on 07.02.2015, 11.03.2016 and 01.06.2016. The petitioner did not file their objections and the Assessing Officer, having left with no other option,

confirmed Form-O, pre-revision notices, and passed the impugned assessment orders.

3. When these cases came up for admission, it was submitted on behalf of the petitioner, in all the writ petitions, that the pre-revision notices were not served, though the change of address of place of business of the petitioner was intimated, yet the respondent did not issue the notices to the correct address of the petitioner.

4. In order to verify the said submission, the learned Additional Government Pleader appearing for the respondent, in all the writ petitions, was permitted to get the original files and also asked the respondent to be present in Court.

5. Today, the original files have been produced by the respondent and the respondent is also present, before this Court.

6. From a perusal of the original files, it is seen that the notices were all sent to the petitioner's old address and they have all been received by the petitioner and postal acknowledgment cards have been produced. Thus, it is evidently clear that it is not the case of violation of principles of natural justice, but a case where the petitioner deliberately failed to avail the opportunity. Therefore, the question of permitting the petitioner to by-pass the appellate remedy and file the writ petitions, challenging the assessment orders, cannot be entertained.

7. Accordingly, these writ petitions stands dismissed, as not maintainable, giving liberty to the petitioner, in all the writ petitions, to file appeals against the impugned orders and if the appeals are filed within a period of 30 days from the date of receipt of a copy of this order, the Appellate Authority shall not dismiss the appeal on the ground of limitation and shall proceed with the same in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

srk

To
1. The Commercial Tax Officer,
   Royapettah Assessment Circle,
   No.46, Greenways Road, Chennai - 600 028

+ 1 cc to Mr.Special Government Pleader SR.47595

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& W.M.P.Nos.24633 to 24368 of 2016

GJ(CO)
Eu 08.09.16