IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 01.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30207 of 2016 &

W.M.P.Nos.26199 & 26200 of 2016

M.Gopinath
Proprietor of Gayathri Traders, (Defunct),
No.26/1, Vellore Road,
Katpadi Taluk,
Vellore-632 007,
Vellore District. .. Petitioner

Versus

The Commercial Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham,
Vellore District. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records on the file of the respondent in its impugned order passed in TIN 33164244578/2014-15, dated 31.03.2016 and quash the same as illegal and contrary to the Scheme of the Act.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.Vasudha Thiagarajan
Additional Government Pleader

O R D E R

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Ms.Vasudha Thiagarajan, learned Additional Government Pleader, accepting notice on behalf of respondent. With the consent of the learned counsel on either side, the Writ Petition is taken up for final disposal.

2.The petitioner-Company, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax, 2006 (hereinafter referred as "TNVAT Act"), has filed this Writ Petition, challenging the order of Assessment dated 31.03.2016 for the year 2014-15.

3. The ground raised by the petitioner in the impugned order cannot be tested at this juncture for the reason that the petitioner failed to respond to the pre-revision notice dated 29.01.2016. Thus, the petitioner having failed to avail the opportunity granted, cannot contend that the order is arbitrary and illegal.

4. The learned counsel for the petitioner pointed out that the petitioner has surrendered the original license as they are closed the business and this has been acknowledged by the Deputy Commercial Tax Officer in the Letter Deliver Book vide Acknowledgment, dated 18.01.2013. Therefore, it is submitted that the very same Department could not have issued a notice, while the petitioner accepts their fault in not responding to the pre-revision notice, dated 29.01.2016. Hence, the learned counsel for the petitioner submits that one more opportunity may be granted to the petitioner to submit their objections.

5. Thus, considering the peculiar facts and circumstances of the case and in the light of the fact that the petitioner has stopped their business and surrendered the license, the petitioner is directed to treat the impugned proceedings as a show-cause notice and submit their objections within a period of 15 days form the date of receipt of a copy of this order, along with a copy of this order and relevant documents. On receipt of the same, the respondent, shall afford an opportunity of personal hearing to the petitioner and redo the Assessment in accordance with law.

With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Commercial Tax Officer,
Gudiyatham (East) Assessment Circle,
Gudiyatham,
Vellore District.

+1 cc to M/s.R.Hemalatha Advocate sr 49545
+1 cc to Special Government Pleader sr 49626

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