IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.31999/2016 & WMP.Nos.27750 & 27751/2016

M/s.Sri Perumal Gas Service
rep.by its Proprietor T.Chokkammal
No.60, Townhall, 1st Street
Arakonam, Vellore District. .. Petitioner

Versus

The Commercial Tax Officer
Arakonam, Vellore District. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records on the file of the respondent in its impugned proceedings made in TIN 33944301670/2012-13 dated 10.12.2015, quash the same.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Mr.K.Venkatesh, GA [Taxes]

ORDER

Heard Mrs.R.Hemalatha, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate [Taxes] accepting notice on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner is a dealer in LPG Gas Stoves and Accessories at Arakonam and registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner has questioned the order of assessment for the year 2012-2013 dated 10.12.2015. The petitioner has lost their right to challenge the impugned order before the Appellate Authority and it has been stated that for the reasons beyond their control, they were unable to pursue the matter and were unable to submit their objections in time before the Assessing Officer. The petitioner would plead that the nature of transaction done by them are all properly accounted for and got their Books of Accounts and Documents and the impugned proceedings itself is a result of obtaining an information from the official website of the Department, for which, proper details were not furnished to the petitioner. Therefore, the learned counsel for the petitioner pleads that

one more opportunity may be granted to the petitioner so as to enable the petitioner to go and explain the Assessing Officer that the Returns filed by them for the relevant year was proper and valid.

3 I have heard the learned Government Advocate [Taxes] on the above submissions.

4 Considering the peculiar facts and circumstances of this case and taking note of the fact that the impugned order of assessment is an exparte order and the impugned order itself is on account of the fact that the details of the internet site of the Department was the basis, an opportunity can be granted to the petitioner to go before the Assessing Officer and explain the stand, subject to certain conditions.

5 Accordingly, the petitioner is directed to pay 15% of the disputed tax to the respondent within a period of two weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, the petitioner will be entitled to consider the impugned proceedings as a show cause notice and submit their objections within a further period of two weeks thereafter and on receipt of the objections, the respondent shall re-do the assessment in accordance with law, after affording an opportunity of personal hearing to the petitioner.

6 The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer
Arakonam, Vellore District.

+1 cc to Ms.R.Hemalatha,advocate,sr.51965

+1 cc to Govt.Pleader,sr.52047.

gj(co)
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