IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.32223/2016 & WMP.No.27942/2016

Winner Leather Creation
represented by its Proprietor
G.K.Anandhan, 57/B, SIDCO Industrial
Complex, SIPCOT, Ranipet. .. Petitioner

Versus

The Assistant Commissioner [CT]
Ranipet [SIPCOT] Assessment Circle
Ranipet. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records on the files of the respondent herein in TIN NO.33654362503/2014-15 dated 22.07.2016 [22.04.2016] and quash the same.

For Petitioner : Mr.N.Inbarajan
For Respondent : Mr.K.Venkatesh, GA [Taxes]

ORDER

Heard Mr.N.Inbarajan, learned counsel appearing 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 registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act, 2006]. The petitioner had challenged the order of assessment dated 22.07.2016 for the Assessment Year 2014-2015. The respondent had initially issued a notice on 20.07.2015 stating that on verification of the E-Monthly Returns filed by the petitioner's Selling Dealers in the intranet website of the Department, it was alleged that the petitioner has effected purchases from the said dealers and claimed ITC. But, however those purchases have not been accounted for by the Selling Dealers at the other end in their monthly return in Annexure-II for the year 2014-15. Therefore, the respondent proposed to disallow the respective ITC claimed by the petitioner apart from proposing to levy penalty. Along

with the notice, an enclosure was appended giving the names of the other end dealers, their TIN numbers etc. The petitioner, by letter dated 11.08.2015, sought for 30 days time to submit their objections. This letter is said to have been delivered to the office of the respondent on the same date, as evidenced by the endorsement in the Letter Delivery Book. Subsequently, new officer who assumed charge, had issued another notice dated 22.12.2015 and this notice contained the detailed particulars of the transactions and it was stated that all the transactions have not been accounted for by the other end dealers in their monthly returns in Annexure-II for the year 2014-15. the petitioner is said to have given the objections on 20.06.2016 stating among other things, that they had mentioned wrong TIN numbers of few dealers and they have reconciled the Annexure II of the other end dealers with their Annexure-I and they have stated that there is no difference. Though this objections dated 20.06.2016 is stated to have been given, there is no proof to show that the respondent has received the same. Therefore, the respondent cannot be faulted with for having completed the assessment exparte. Nevertheless, when the petitioner pleads that they have wrongly mentioned the TIN numbers and they will be able to reconcile the details and show that there is no difference between Annexure-II and Annexure-I, this Court deems it appropriate that one more opportunity can be granted to the petitioner.

3 Accordingly, the petitioner is directed to treat the impugned proceedings as a Show Cause Notice, submit their objections, within a period of two weeks from the date of receipt of a copy of this order, enclosing all relevant documents and the respondent, on receipt of the objections, shall afford an opportunity of personal hearing and re-do the assessment in accordance with law. As this Court directed the petitioner to treat the impugned proceedings as Show Cause Notice, the respondent shall not initiate any coercive steps for recovery of the tax and penalty as quantified in the impugned proceedings.

4 The writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

The Assistant Commissioner [CT]
Ranipet [SIPCOT] Assessment Circle
Ranipet.

+1 cc to Mr.N.Inbarajan Advocate sr 52120
+1 cc to the Special Government Pleader taxes sr 52375

WP.No.32223/2016

aa13/10/2016