IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.32833 & 32834/2016 & WMP.Nos.28377 to 28380/2016

Tvl.Sri Thinaa Transports
rep.by its Proprietor, 256-E
Sekkadi Street, Mandarakuppam
Neyveli 607 802. .. Petitioner in both writ petitions

..Vs..

The Deputy Commercial Tax Officer
[Addl.], Virudhachalam. .. Respondent in both writ petitions

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorarified mandamus calling for the records of the respondent in Assessment Orders in TIN Nos.3316625097/2014-2015 ; and 3316625097/2015-16 respectively dated 12.07.2016 and quash the same as illegal and unconstitutional and also to direct the respondent to grant an opportunity to the petitioner provided u/s.22[4] of the TNVAT Act to produce their books of accounts and to verify the same before passing fresh orders of assessment.

For Petitioner : Mr.R.Ganesh Kanna
For Respondent : Mr.K.Venkatesh, GA [Taxes]

COMMON ORDER

Heard Mr.R.Ganesh Kanna, 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 petitions are taken up for final disposal.

2 The petitioner, a registered dealer on the file fo the respondent, challenges the impugned Orders of Assessment dated 12.07.2016 passed for the Assessment Years 2014-2015 and 2015-2016.

3 The petitioner's case is that the assessment for the Assessment Years 2014-15 and 2015-16, under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has been revised based on the details found in the Departmental website. Therefore, the case of the petitioner is that the matter has to be tagged along with the batch of cases, wherein this Court has granted interim orders in respect of the assessments which have been made on account of mis-match based on the details gathered from the website. However, on a perusal of the impugned orders, it is seen that the petitioner has not filed the returns for the said Assessment Years, viz., 2014-15 and 2015-16. Therefore, the Assessing Officer, on a perusal of the website, found that there were transactions effected by the petitioner and hence, issued notice dated 15.06.2016. The respondent would state that the petitioner has received the notice on 20.06.2016. But, did not file their returns nor appeared before the respondent along with their returns. Therefore, the proposal was confirmed. The manner in which the impugned orders have been passed, cannot be faulted. Though in the affidavit filed in support of the writ petitions, the petitioner would take a stand that they have not received the notice dated 15.06.2016, for the present, this Court is of the view that, that aspect need not be gone into for the simple reason that the petitioner has failed to file the returns for the relevant years. Therefore, the petitioner has to go before the Assessing Officer to place all details.

4 Accordingly, while rejecting the prayer to quash the impugned proceedings, the petitioner is directed to treat the impugned proceedings as the show cause notice and submit its objections along with the documents within a period of two weeks from the date of receipt of a copy of this order. On the objections along with the documents being received, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law.

5 The writ petitions stand disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

The Deputy Commercial Tax Officer
[Addl.], Virudhachalam.

+1 cc to Mr.A.Ravichandran Advocate sr 53085
+1 cc to the Government Pleader sr 53516

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aa23/09/2016