

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition No. 33436 of 2016

and

W.M.P.No. 28874 of 2016

Tirunelveli Wind Farms Ltd.,
rep. by its Authorized Signatory,
Mukesh Gopaldas Thobhani

...Petitioner

Vs.

The Assistant Commissioner (CT)
Evening Bazaar Assessment Circle,
No. 48/39, 3rd Floor,
Wavoo Complex Annexure,
Rajaji Road, Chennai - 600 001.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari Mandamus to call for records of the impugned proceedings of the respondent, passed in TIN / 33720301317/2012-13, dated 10.08.2016, and to quash the same, and further, to direct the respondent to redo the assessment in accordance with law.

For Petitioner : Mr. N. Murali

For Respondent : Mr. K. Venkatesh
Government Advocate

सत्यमेव जयते
O R D E R

Heard Mr. N. Murali, learned counsel appearing for the petitioner, and Mr. K. Venkatesh, learned Government Advocate, accepting notice on behalf of the respondent. With the consent on either side, the Writ Petition itself is taken up for 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) and Central Sales Tax Act, 1956 (CST Act).

3. The respondent issued a pre-revision notice, dated 21.08.2015. However, the said notice was not served, and returned with an endorsement 'unserved'. Therefore, another notice was issued on 20.05.2016, which was addressed to the Directors, which the Directors have received. In the notice, the respondent proposed to revise the turnover, based on the data collected from the Department's website. Though the Directors of the petitioner received the notice, they have failed to submit their objections within the time, and therefore, the respondent has completed the assessment ex parte and passed the impugned order. The petitioner did not go before the Authority, but, has approached this Court, by filing this Writ Petition, stating that, they have got sufficient documents to show that there is no cause for revision of the assessment. Since the petitioner did not avail the opportunity granted, the respondent cannot be faulted for having completed the assessment ex parte. However, considering the submission of the learned counsel for the petitioner that the petitioner would be able to reconcile the mismatch, instead of keeping this Writ Petition, this Court is of the view that, it would be appropriate to grant one more opportunity to the petitioner to submit their objections.

4. Accordingly, this Writ Petition is disposed of, by directing the petitioner to treat this impugned proceedings as show cause notice and submit their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, in which, the petitioner shall produce all relevant documents, and thereafter, the respondent shall redo the assessment in accordance with law. Since this Court has directed the impugned proceedings to be treated as show cause notice, no coercive action shall be initiated against the petitioner till the assessment is redone, in terms of the above direction. Before submitting the objections, the petitioner is entitled to seek for relevant details from the respondent, since the data, which formed the basis for passing the impugned order, has been taken by the respondent from the Department website. On furnishing such information/details, the petitioner is granted two weeks' time to submit their objections, as stated above.

5. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

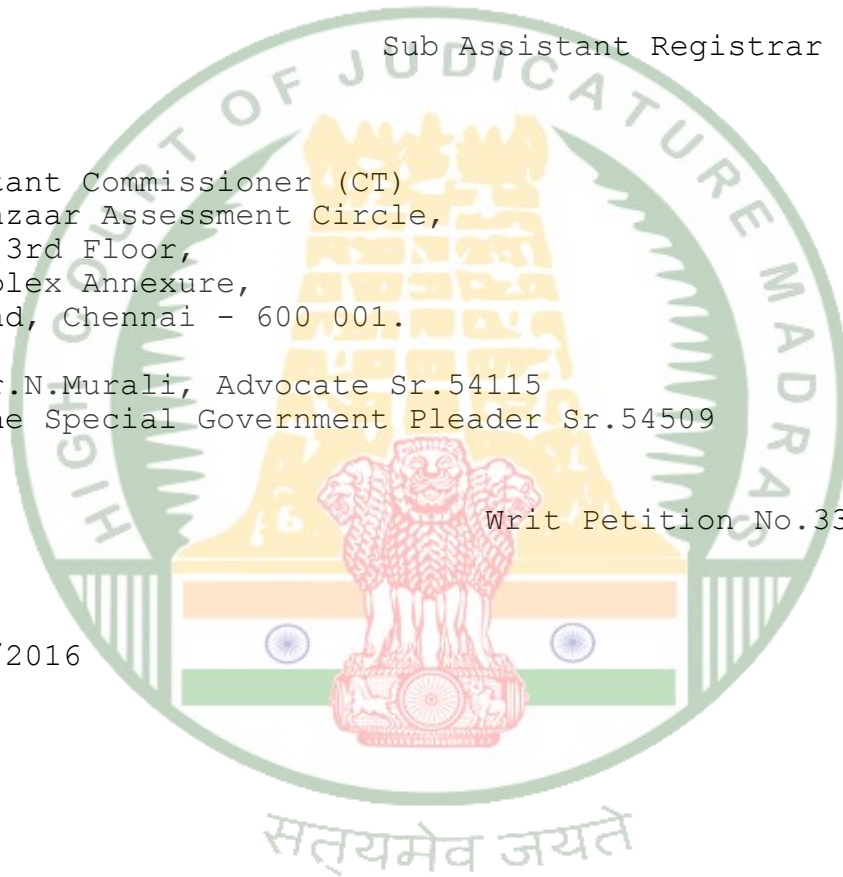
To

The Assistant Commissioner (CT)
Evening Bazaar Assessment Circle,
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Rajaji Road, Chennai - 600 001.

+1cc to Mr.N.Murali, Advocate Sr.54115
+1cc to the Special Government Pleader Sr.54509

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srg 28/09/2016



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