IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.34215 of 2016

&

W.M.P.No.29520 of 2016

H.Naveen Kumar represented by
its Prop. H.Naveen Kumar
No.10, Krishna Pillai Street
Tindivanam 604001
Villupuram District .. Petitioner

Vs

1.The State of Tamil nadu
represented by its Secretary to Government
Department of Commercial Taxes
and Registration
Fort St.George, Chennai -600 009

2.The Commissioner of Commercial Taxes
2nd floor, Elilagam, Chepauk
Chennai-600 005

3.The Commercial Tax Officer (Addl)
Tindivanam Assessment circle
Tindivanam, Villupuram District .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records relating to the revision of Assessment orders passed by the 3rd respondent his proceedings in TIN No.33584724012/2013-14 dated 31.08.2016 received b the petitioner on 10.09.2016 and quash the same and to direct the 3rd respondent to afford an opportunity of personal hearing and pass fresh orders for the assessment year 2013-2014 ignoring the notices issued for the assessment year 2012-13, provide the documents as requested by the petitioner.

For Petitioner : Mr.Md.Ibrahim Ali
For Respondents : Mr.S.Kanmani Annamalai, AGP

O R D E R

Heard Mr.Md. Ibrahim Ali, learned counsel for petitioner. And Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of the respondent.

2. Petitioner is a register dealer on the file of the 3rd respondent under the provisions on Tamil Nadu Vat Act 2006 (TNVAT). In this writ petition, the petitioner challenges the order of assessment passed by the third respondent for the year 2013-14. Admittedly, the petitioner did not avail the opportunity granted by the Assessing officer. The undisputed facts are that a pre-revision notice dated 15.04.2015 was received by the petitioner, but he did not submit any reply but made a request for furnishing copies of the purchase details. Thereafter, the respondent issued a notice on 30.06.2016, giving an opportunity of personal hearing as well as an opportunity of submitting objections. Though the wordings in the notice is not very clear the notice is intended to the dealer to file objections and also a intimation to the dealer that the 3rd respondent will afford him an opportunity of personal hearing. However, the petitioner did not utilize these opportunities but waited for about two months and sent a reply on 31.08.2016. The impugned assessment order is also dated 31.08.2016. Thus it is not a case where there is a violation of principles of natural justice but it is a case where the petitioner failed to avail the opportunity granted to him.

3. Faced to this situation learned counsel for the petitioner pleads that one more opportunity may be granted and the third respondent may be directed to furnish the purchase details so that the petitioner will be in a position to give effective reply. This request can be considered subject to certain conditions.

4. Accordingly, the petitioner is directed to pay 15% of the disputed tax to the third respondent within a period of six weeks from the date of receipt of a copy of this order. If such payment is made then the petitioner is entitled to appear before the third respondent request for furnishing the purchase details and after receiving the purchase details the petitioner shall submit the objections within 15 days therefrom. After which, the third respondent will afford an opportunity of personal hearing by fixing a specific date on which the dealer shall appear. After hearing the contentions put forth the third respondent

shall redo the assessment in accordance with law. However, for any reason petitioner fails to comply with the conditional order the benefit of this order will not enure to the petitioner and the writ petition will stand dismissed automatically leaving it open to the petitioner to work out his remedies in accordance with the provisions of TNVAT Act.

With the above observation, writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1.The Secretary to Government
State of Tamil nadu
Department of Commercial Taxes
and Registration
Fort St.George, Chennai -600 009

2.The Commissioner of Commercial Taxes
2nd floor, Elilagam, Chepauk
Chennai-600 005

3.The Commercial Tax Officer (Addl)
Tindivanam Assessment circle
Tindivanam, Vilupuram District

+1 CC to Spl. Govt., Pleader (Taxes) Sr.NO.55646
+1 CC to Mr. M. Md. Ibrahim Ali, Advocate Sr.No.55295

W.P.No.34215 of 2016

RSY (CO)
MD : 21/10/2016