IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.34882 & 34883 of 2016
& WMP.Nos.30039 to 30042 of 2016

Tvl.T.N.Enterprises,
rep.by its Proprietor
Neyveli - 607 802. ... Petitioner in both the WPs

Vs

The Deputy Commercial Tax
Officer, (Addl.),
Virudhachalam. ... Respondent in both the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the respondent respectively in TIN 33424423691/2014-15 & TIN 33424423691/ 2015-16 dated 29.7.2016 and quash the same as illegal and unconstitutional and further direct the respondent to pass fresh orders of assessment in accordance with law after affording an opportunity of personal hearing as prescribed under Section 22(4) of the TNVAT Act to the petitioner to file their objections.

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Mr.K.Venkatesh,
Government Advocate

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a dealer in lubricant oil and greases, registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The orders impugned are the assessments orders under the said Act for the years 2014-15 and 2015-16.

3. The respondent issued pre-revision notices to the petitioner and on receipt of the same, the petitioner, by a

representation dated 15.7.2016, requested for 15 days' time to submit their objections. It is not in dispute that the this representation was received by the respondent, as it has been admitted in the impugned orders of assessment. However, one day prior to the expiry of 15 days' time i.e on 29.7.2016, the impugned orders of assessment have been passed. In the meantime, the petitioner also filed their returns in Form 1 on 25.7.2016 and on going through the same, the respondent stated that the petitioner has not furnished the opening and closing stock details for their business and in the absence of the same, he proceeded to complete the assessments.

4. If the respondent had received the representation dated 15.7.2016, then 15 days' clear time should have been granted for him to proceed ex parte. In the meantime, the petitioner also filed returns.For any reason, if the returns are not acceptable, notice could have been issued to the assessee before the completion of assessment.This having not been done, the impugned orders are in violation of the principles of natural justice. However,for that reason,this Court is not inclined to interfere.

5. Accordingly, the writ petitions are disposed of with a direction to the petitioner to treat the impugned orders as show cause notices and submit their objections within 15 days and also furnish opening and closing stock details and other particulars. On receipt of the same, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law.Till such time,no coercive action shall be initiated against the petitioner for recovering tax and penalty.No costs.Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//



Sub Assistant Registrar

RS
To



The Deputy Commercial Tax Officer,
(Addl.), Virudhachalam.

+1cc to Mr.A.Ravichandran, Advocate, S.R.No.56801
+1cc to the Special Government Pleader(T), S.R.No.56744

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NR(CO)
CA(18/10/2016)