In the High Court of Judicature at Madras

Dated : 04.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.35016 & 35017 of 2016
& WMP.Nos.30187 to 30190 of 2016

M/s.Murugan Pharmacy, rep.by
its Proprietor R.Venkataraman ...Petitioner

Vs

The Commercial Tax Officer,
Arakkonam, Vellore District. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN 33084300397/2013-14 and TIN 33084300397/2014-15 dated 14.7.2016 and quash the same.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mr.K.Venkatesh, GA

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 dealing in medicines and general goods at Arakkonam and registered as a dealer on the file of the respondent under the

provisions of the Tamil Nadu Value Added Tax Act, 2006. In these writ petitions, the petitioner has challenged the orders of assessment under the said Act for the years 2013-14 and 2014-15.

3. Admittedly, the petitioner did not respond to the pre-revision notices, which were issued to the petitioner in spite of receipt of the same. That apart, the petitioner also did not avail the opportunity of personal hearing granted by the Assessing Officer while issuing the pre-revision notices. Therefore, the petitioner cannot contend that there has been a violation of the principles of natural justice, when the assessments were completed by the Assessing Officer. Thus, the Assessing Officer cannot be faulted for having passed the impugned orders, as it is a case of failure of the petitioner to avail the opportunity afforded to them.

4. The learned counsel for the petitioner would submit that the petitioner is a small dealer and that they may be granted one more opportunity to go before the Assessing Officer and put forth their submissions, as it is stated that they have got an excellent case on merits.

5. Considering the facts and circumstances of the case and the fact that the assessments have been completed ex parte, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer subject to certain conditions.

6. Accordingly, the writ petitions stand disposed of by directing the petitioner to pay 15% of the disputed tax for each of the assessment years

within a period of four weeks from the date of receipt of a copy of this order. If the petitioner effects payment of the 15% of the disputed tax within the time permitted, they will be entitled to treat the impugned proceedings as show cause notices and will be granted 15 days' time therefrom to submit their objections. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. Upon failure of the petitioner to comply with the above condition, the benefit of this order will not enure to the petitioner and the writ petitions shall stand automatically dismissed without further reference to this Court, leaving it open to the petitioner to work out their remedies under the said Act. No costs. Consequently, the above WMPs are closed.

04.10.2016

Internet : Yes

To
The Commercial Tax Officer, Arakkonam, Vellore District.

RS

T.S.SIVAGNANAM,J

RS

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