IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.37523 of 2016

& W.M.P.No.32152 of 2016

M/s. Jambu Agencies and Hardwares,
Rep. By Proprietor, Mr. J.Raju,
No.3, Thirumalai Nagar Annex,
Perungudi, Chennai - 96 ... Petitioner

Versus

The Assistant Commissioner (CT),
Sholinganallur Assessment Circle,
No.141, Burnma Colony, 1st Main Road,
Perungudi, Chennai - 96 ... Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari to call for the records on the file of the respondents in proceedings TIN No.33710924887/2013-14, dated 31.12.2015 and quash the same being violative of principles of natural justice, illegal, invalid and against the law and also law laid down by this Court.

For Petitioner : Mr. D.Vijayakumar

For Respondent : Mr. K.Venkatesh,
Govt. Advocate

O R D E R

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, who accepts notice on behalf of the respondent. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

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2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter will be referred to as “the TNVAT Act”), has filed this writ petition, challenging an order of assessment, dated 31.12.2015, for the assessment year 2013-14. In the affidavit filed in support of the writ petition, there are no specific reason as to why the petitioner has not challenged the impugned order, earlier. However, the learned counsel for the petitioner, on instructions, would submit that the petitioner is a small time dealer and after receiving the impugned order, it appears that they approached the Assessing Officer, but was unable to sought out the

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issues and therefore, had left the place of business to an unknown destination and only now, they have returned and the petitioner seeks to adjudicate the correctness of the order and pleads that one more opportunity may be granted to the petitioner to go before the Assessing Officer and place all facts.

3. Considering the peculiar facts and circumstances of the case and further taking note of the fact that though the impugned order was passed in the year 2015, the respondent has not been able to recover the tax, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer, subject to certain conditions.

4. Accordingly, this writ petition stands disposed of, by directing the petitioner to pay 15% of the tax, as quantified in the impugned order, within a period of four weeks from the date of receipt of a copy of this order. If such an amount is paid within the time permitted, then the petitioner is entitled to treat the impugned order as the show cause notice and submit their objections within a period of 15 days, therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, consider the objections as well as the documents that the petitioner may produce and re-do the assessment in accordance with law. In the event, if the petitioner fails to comply with the condition imposed in this order, the benefit of this order will not enure to the petitioner and the writ petition would stand automatically dismissed, without any further reference to this Court, leaving it open to the petitioner to workout their remedies available to them under the provisions of the TNVAT Act. No costs. Consequently, the connected WMP is closed.

srk

Sd/-
Assistant Registrar (CS-)

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सत्यमेव जयते

Sub-Assistant Registrar

To

1. The Assistant Commissioner (CT),
Sholinganallur Assessment Circle,
No.141, Burnma Colony, 1st Main Road,
Perungudi, Chennai - 96

+1 CC Mr. D.Vijayakumar Advocate SR.No.61136

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MSS 10/11/2016

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