IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM:

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

Writ Petition No.37530 of 2016
& W.M.P.Nos.32156 & 32157 of 2016

M/s. Sri Krishna Enterprises,
Rep. By its Proprietrix – R.Mohana,
No.38 Police Station Street,
Arni, Tiruvannamalai District ... Petitioner

Versus

The Commercial Tax Officer,
Arni, Tiruvannamalai District .. 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 respondent, in its impugned proceedings made in TIN No.33686254714/2014-15, dated 31.05.2016 and to quash the same.

For Petitioner : Ms. R.Hemalatha
For Respondent : Mr. K.Venkatesh, Govt. Advocate

O R D E R

Heard Mrs.R.Hemalatha, learned counsel 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.

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 Act"), has filed this writ petition, challenging an order of assessment, dated 31.05.2016, pertaining to the assessment year 2014-15. Admittedly, the petitioner did not respond to the pre-revision notice issued by the respondent, dated 11.05.2016 and did not file any objections. Therefore, the petitioner cannot contend that the impugned order has been passed in violation of the principles of natural justice, as it is a case where the petitioner had failed to avail the opportunity granted to them. Therefore, the respondent was fully justified in finalizing the assessment, by confirming proposal in the pre-revision notice, dated 11.05.2016.

3. The learned counsel for the petitioner submitted that the assessment has been revised, based on the verification of the intranet website of the Department, alleging mis-match. However, the petitioner has got sufficient records to prove that they have paid taxes, in respect of the purchases effected by them. Therefore, the learned counsel submitted that the petitioner may be granted one more opportunity to go before the Assessing Officer and put forth their submissions.

4. After considering the arguments advanced by the learned counsel on either side and after perusing the materials placed on record, this Court is inclined to grant an opportunity to the petitioner, subject to certain conditions.

5. 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 three (3) 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 under the provisions of the TNVAT Act. No costs. Consequently, the connected WMP is closed.

26.10.2016

srk

T.S.SIVAGNANAM, J.,

srk

To
The Commercial Tax Officer,
Arni, Tiruvannamalai District

W.P.No.37530 of 2016
& W.M.P.Nos.32156 & 32157 of 2016

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