In the High Court of Judicature at Madras

Dated : 03.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.38219 of 2016 & WMP.No.32769 of 2016

Tvl.New Bharath Hardwards,
rep.by its Proprietor, Tindivanam ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Tindivanam. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TIN No.33334721773/2015-16 dated 8.9.2016 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has challenged the order of assessment dated 8.9.2016 for the year 2015-16.

3. The impugned order has not been questioned on factual grounds. But, the petitioner's contention is that their objections to the pre-revision notice were not considered. The following dates would be relevant to take a decision in the writ petition.

4. The pre-revision notice dated 16.8.2016 was received by the petitioner on 19.8.2016, in which, the petitioner was granted 15 days' time to submit their objections. Thus, the petitioner ought to have submitted their objections on or before 3.9.2016. However, the petitioner's objections dated 2.9.2016 were sent by registered post on 7.9.2016 and they were received by the respondent on 10.9.2016. In the meantime, the impugned order has been passed on 8.9.2016 and dispatched on 9.9.2016.

5. Considering the peculiar facts and circumstances of the case, this Court is of the view that the assessment can be redone after considering the petitioner's objections.

6. In the light of the above, the writ petition is disposed with a direction to the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within a period of seven days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

03.11.2016

RS

T.S.SIVAGNANAM,J
RS

Internet : Yes

To
The Deputy Commercial Tax Officer, Tindivanam.

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