IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

W.P.No.38418 of 2016 &
WMP Nos.32904 & 32905 of 2016

M/s Shri L.K.Enterprises
Rep. By its proprietor-G.Kannabiran ...Petitioner

Vs.

The Commercial tax Officer
Cuddalore Town, Cuddalore
Cuddalore District. ... Respondents

Prayer :

This Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN:33484384373/2014-15 dated 02.08.2016 and quash the same.

For Petitioner :Mrs.R.Hemalatha

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mrs.R.Hemalatha, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for disposal.

2.The petitioner who is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006, [TNVAT Act], has filed this Writ Petition, challenging the order of assessment dated 02.08.2016, for the assessment year 2014-15.

3. The learned counsel for the petitioner submits that the assessment for the relevant year is sought to be revised based on the details gathered from the intranet web-site of the Department, without furnishing full particulars.

4.It is seen from the impugned order that the petitioner though received the pre-revision notice dated 27.4.2016, did not care to appear before the Assessing Officer and file objections. The Assessing Officer has waited for four months and thereafter only confirmed the proposal in the notice. Therefore, the action of the Assessing Officer in passing the impugned order cannot be faulted.

5.The petitioner is guilty of having not availed the opportunity afforded to them. Therefore, they cannot plead that there is violation of principles of natural justice. However, considering the fact that the pre-revision notice sets out certain details, the petitioner can be given one more opportunity to go before the Assessing Officer and submit objections. However, this indulgence can be granted, subject to certain conditions.

6.Accordingly, the petitioner is directed to pay 15% of the disputed tax, within a period of two weeks from the date of receipt of a copy of this order. If the same is paid, then the petitioner is entitled to treat the impugned proceedings as a show cause notice and submit their objections and furnish all particulars to establish the genuineness of their transactions. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law.

The Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

Rpa

To

The Commercial tax Officer
Cuddalore Town, Cuddalore
Cuddalore District.

1 cc to M/s.R. Hemalatha, Advocate, Sr. 63650
1 cc to Government Pleader, Sr. 63122

W.P.No.38418 of 2016

CP (CO)
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