IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.39311 of 2016 and

W.M.P.No.33644 of 2016

Tvl. Prakash Traders
Rep by its Proprietor
Rajkumar Patwa No.44
Patwa Complex MG Road.
Hosur ... Petitioner

Vs

The Assistant Commissioner
(CT) Hosur (South) Hosur ... Respondent

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue Writ of Certiorari to calling for the records of the respondent in order dt 19.9.2016 in TIN 33723360794/2012- 13 and quash the same

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.K.Venkatesh,
Government Advocate

ORDER

Heard Mr.Adithya Reddy, the learned counsel for the petitioner and Mr.K.Venkatesh, the learned Government Advocate, who accepts notice on behalf of the respondent and with the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner is a dealer in electronic goods and registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the 'TNVAT Act' in short). In this writ petition, the petitioner challenges an order of assessment dated 19.9.2016 for the year 2012-13.

3. The only ground on which the impugned order is challenged is by stating that the petitioner's returns were taken up, subject to random selection for detailed scrutiny under Section 22(3) of the Tamil Nadu Value Added Tax Act, 2006 and without opportunity to the petitioner, the assessment has been completed.

4. The contention raised by the petitioner is that even if there is a revision of assessment made under Section 22(3) of the Act, then the procedure under Section 27 of the TNVAT Act has to be complied with and without opportunity, the assessment could not have been finalised, by refusing to accept the petitioner's returns.

5. On a perusal of the impugned order, it is seen that there is no opportunity given to the petitioner, to conflict the stand of the respondent. In other words, there was no proposal given to the respondent stating as to the manner in which the assessment is to be completed. This is sufficient to hold that the impugned assessment order has been passed in violation of principles of natural justice. For that reason, this Court is inclined to direct that an opportunity to be afforded to the petitioner to put forth their submissions.

6. Accordingly, the petitioner is directed to treat the impugned order as a show cause notice and submit their objections, within a period of 15 days from the date of receipt of a copy of this order, after which, the respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment, in accordance with law, within a period of three weeks from the date on which personal hearing is concluded. Till then no coercive action shall be initiated against the petitioner.

7. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

msk

To

The Assistant Commissioner
(CT) Hosur (South) Hosur
Chennai-600 006.

+ 1 cc to M/s. Adithya Reddy, Advocate Sr.
+ 1 cc to Special Government Pleader Sr.64784

W.P.No.39311 of 2016

RSK(CO)
Eu 10.12.16