IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.40897 of 2016 and WMP.No.34892 of 2016

Tvl.V.S.L.Impex, rep.by its
Proprietor V.Suhail Ahmed ...Petitioner

Vs

The Commercial Tax Officer,
Gudiyatham (West) Assessment
Circle, Gudiyatham, Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records in respect of the proceedings TIN No.33884343607/2014-15 dated 17.5.2016 of the respondent under the Tamil Nadu Value Added Tax Act 2006 and quash the same.

For Petitioner : Mr.Aditya Reddy

For Respondent : Mr.K.Venkatesh, GA

ORDER

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

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the petitioner challenges an order of assessment dated 17.5.2016 for the year 2014-15 under the said Act.

3. The respondent scrutinized the website maintained by the Department and on verification, it appears that there were some transactions done by the petitioner with three dealers during the year 2014-15, which were not reflected in the monthly returns filed by the petitioner. Therefore, the respondent proposed to revise the turnover and levy tax on the petitioner.

4. The petitioner submitted their objections on 7.4.2016 stating that they did not have any transactions with those dealers, whose names were given in the pre-assessment notice. On receipt of the objections, the respondent stated that the reply given by the petitioner is unbelievable and unacceptable and

confirmed the proposal in the notice dated 13.1.2016. Aggrieved by the same, the petitioner is before this Court.

5. From the facts stated above, it is seen that the respondent did not make any further enquiry to ascertain as to whether the petitioner's statement is true or false. Furthermore, there are no reasons as to why the respondent came to the conclusion that the reply given by the petitioner is unbelievable and unacceptable. If the respondent was of the opinion that the reply given by the petitioner is unbelievable and unacceptable, there should have been an enquiry and that enquiry should have been done with the other end dealers also and the petitioner should be confronted with those materials and only thereafter, such a conclusion could have been arrived at. Thus, the impugned order is cryptic, as the respondent has not conducted any enquiry nor assigned any reason as to why the reply given by the petitioner is unbelievable and unacceptable. Therefore, the impugned order is bad in law.

6. Accordingly, the writ petition is allowed, the impugned order is set aside and the matter is remanded back to the respondent for fresh consideration. The respondent is directed to conduct an enquiry by calling for details from the Assessing Officer of the other end dealers, whose names have been mentioned in the pre-revision notice, afford an opportunity of personal hearing to the petitioner and after confronting the petitioner with all the details, pass a speaking order on merits and in accordance with law. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To
The Commercial Tax Officer, Gudiyatham (West) Assessment Circle,
Ground Floor, No.98/122, Gandhi road,Nadupettai,
Gudiyatham, Vellore District.

+1 cc to Spl.Govt.Pleader,sr.67910

+1 cc to Mr.S.P.Asokan,advocate,sr.67642.

ss(co)
krd 26/12

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