IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM:

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

Writ Petition No.40964 of 2016 &
WMP.Nos.34933 & 34940 of 2016

M/s.Sri Sakthi Agency, rep.by
its Proprietor Mr.M.Palanisamy ..Petitioner

Vs

1.The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur.

2.The Branch Manager, Lakshmi
Vilas Bank, Swarnapuri Branch. ...Respondents

PETITION filed under Article 226 of The Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the 1st respondent in TIN : 33823246667/2014-15 dated 27.7.2016, and to quash the same as passed based on the web report obtained from the department's web site and so passed contrary to the provisions of the Tamil Nadu Value Added Tax Act and against the principles of natural justice and to further direct the respondent to provide all the documents relating to the other dealers sales annexure (annexure II), the web report and the connected documents, to grant opportunity to the petitioner to cross examine the earlier sellers and thereafter to pass orders in accordance with law after granting reasonable opportunity to the petitioner to file their objections and then to pass order in accordance with law after granting reasonable opportunity to the petitioner to file their objections.

For Petitioner : Mr.P.Rajkumar
For Respondent-1 : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the first respondent. Heard the learned counsel for the petitioner. In view of the limited nature of relief to be granted in this order, the writ petition itself is taken up for final disposal without ordering notice to the second respondent.

2. The petitioner is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In this writ petition, the petitioner has challenged the assessment order dated 27.7.2016 for the year 2014-15.

3. Though the petitioner states that they filed their objections to the revision notice dated 8.6.2016, there is no proof to show that the petitioner had submitted their objections. Therefore, the first respondent was fully justified in confirming the proposal in the notice and passing the impugned order.

4. However, the learned counsel for the petitioner submits that already, the petitioner's bank account has been attached and Rs.75,000/- has been withdrawn. He further submits that one more opportunity may be granted to the petitioner to go before the Assessing Officer and reconcile the discrepancies.

5. Considering the fact that the petitioner would be in a position to reconcile the discrepancies pointed out by the Assessing Officer, this Court is inclined to grant one more opportunity to the petitioner subject to certain conditions.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay Rs.50,000/- (Rupees fifty thousand only) towards disputed tax liability within a period of two weeks from the date of receipt of a copy of this order. If the same is done, the attachment of the petitioner's bank account shall be lifted and the petitioner is entitled to treat the impugned proceedings as a show cause notice and submit their objections within a period of two weeks therefrom. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner, provide all the details to the petitioner and after giving sufficient time to the petitioner to reconcile the discrepancies, redo the assessment in accordance with law. No costs. Consequently, the above WMPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
1.The Assistant Commissioner (CT),
Omalur Assessment Circle, Omalur.

+1 cc to Mr.P.Rajkumar Advocate sr 67606

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