IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.Nos.41933 to 41935/2016 & WMP.No.35899 to 35901/2016

Tvl.Sellam Associates
rep.by its Proprietor K.Palanisamy
No.1/3, Beemankattu Street
Kollampalayam, Erode 638002. .. Petitioner in all the writ petitions

Vs

The Deputy Commercial Tax Offcer
[Main], Erode Rural Circle
Erode. .. Respondent in all the writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the files of the respondent in TIN 33102902034/2013-14 ; TIN 33102902034/2015-16 [upto September 2015] and TIN 33102902034/2014-15 respectively dated 19.05.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner in both the WPs : Mr.R.Senniyappan
For Respondent in both the WPs : Mr.K.Venkatesh, GA

COMMON ORDER

Heard Mr.R.Senniyappan, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing on behalf of the respondent and with the consent on either side, the writ petitions are taken up for final disposal.

2 The petitioner, who is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act], has filed the writ petitions challenging the orders of assessment dated 19.05.2016 for the Assessment Years 2013-14 ; 2015-2016 and 2014-2015 respectively.

3 The only ground on which the impugned orders are challenged is by contending that the show cause notice issued to the petitioner did not afford any reasonable opportunity to the petitioner ; but it was a demand notice. To verify the correctness of the statement, the learned Government Advocate was directed to get instructions in the matter.

4 Today, the learned Government Advocate has produced the copies of the notices, which clearly show that it is the show cause notice and a demand. Therefore, the contention raised by the petitioner stands rejected. The other ground raised by the petitioner is that the impugned Assessment Orders are provisional assessment orders and since the years are already over, the respondent may be directed to complete the assessment for the full year. Normally, this plea would have been accepted by this Court, provided the petitioner had responded to the show cause notice and had contested the matter. The petitioner not only being a tax defaulter, but also did not take the assessment proceedings seriously. The petitioner is not entitled for any indulgence.

5 Therefore, the petitioner directed to pay 15% of the disputed tax for each of the Assessment Years within a period of three weeks from the date of receipt of a copy of this order and on such payment, the petitioner is entitled to treat the impugned proceedings as show cause notice and the petitioner is granted fifteen days time to submit their objections and on receipt of the objections, te respondent shall afford an opportunity of personal hearing to the petitioner and re-do the assessment in accordance with law. While completing the assessment, it is open to the Assessing Officer to complete the assessment for the entire year.

6 The writ petitions stand disposed of with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To
The Deputy Commercial Tax Offcer
[Main], Erode Rural Circle
Erode.

+1cc to the Government Pleader, S.R.No.71994

sk(CO)
md(28/12/2016)

WP.Nos.41933 to 41935/2016