In the High Court of Judicature at Madras

Dated : 01.12.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.42279 of 2016 & WMP.No.36183 of 2016

Tvl.The Noble Motors, rep.by
its Proprietor E.P.Sathishkumar ...Petitioner

Vs

The Assistant Commissioner (CT),
Namakkal (Rural) Assessment
Circle, Namakkal. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in VAT.33763102849/2012-13 dated 12.8.2016 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts 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 has challenged the order of assessment passed by the respondent under the provisions of the said Act for the year 2012-13.

3. The respondent issued a revision notice dated 30.3.2015. It appears that the petitioner approached the Assessing Officer and sought time to submit their objections, but failed to do so within the time permitted. However, immediately, orders have not been passed. But, after more than 1 1/2 years, the impugned order has been passed.

4. On a perusal of the impugned order, it is seen that there is another notice issued to the petitioner dated 25.6.2015, for which, the petitioner sought time, but did not file their objections. Therefore, the respondent cannot be faulted for having completed the assessment based on the available materials.

5. The learned counsel for the petitioner submits that the mistake is on the part of the dealer in not promptly responding to the second notice and requests that this Court may consider affording one more opportunity to the petitioner.

6. Considering the facts and circumstances of the case and since the assessment has been completed ex parte for the reason that the petitioner did not file their objections, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of tax within a period of three weeks from the date of receipt of a copy of this order. On such payment, the petitioner is entitled treat the impugned order as a show cause notice and file their objections within two weeks therefrom. On filing of such objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. On the petitioner complying with the condition of payment of 15% of the tax, the respondent shall not demand the balance of tax and penalty as quantified in the impugned assessment order, since this Court has directed the proceedings to be treated as a show cause notice. It is made clear that this order will not enure to the benefit of the petitioner, if the petitioner fails to make payment of 15% of the tax within the time stipulated. No costs. Consequently, the above WMP is closed.

01.12.2016

Internet : Yes

To
The Assistant Commissioner (CT), Namakkal (Rural) Assessment Circle,
Namakkal.

RS

T.S.SIVAGNANAM,J

RS

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