IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.12.2016

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

WP.No.42416/2016 & WMP.No.36296/2016

M/s.Veerammal Medicals, rep.by its
Proprietor S.Kodikumar, Bazaar Street
Paravai, Velankanni, Nagapattinam District. ..Petitioner

Vs

The Deputy Commercial Tax Officer [CT]
Nagapattinam Main Assessment Circle,
Nagapattinam. ..Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent in TIN 33963900855/2012-2013 dated 20.06.2016 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan
For Respondent : Mr.K.Venkatesh, GA

ORDER

Heard Mr.K.Soundararajan, 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 petition is taken up for final disposal.

2 The petitioner is a dealer in drugs and medicines, registered under the provisions of the Tamil Nadu Value Added Tax Act, 2006 [TNVAT Act]. In this writ petition, the petitioner challenges the Order of Assessment dated 20.06.2016, which is the revision of the assessment under section 27[1][a] of TNVAT Act, for the year 2012-2013.

3 Though the petitioner received the revision notice dated 30.03.2015, they failed to submit their objections to the said notice. Therefore, the petitioner cannot state that there is violation of principles of natural justice as it is a case where the petitioner failed to avail the opportunity granted to him. The learned counsel for the petitioner submitted that the

petitioner was under medical treatment for jaundice and other related ailments and therefore, he could not to pursue the matter and there is no willfullness on the part of the petitioner in not responding to the revisional notice dated 30.03.2015 and therefore, prays that one more opportunity may be grante dto the petitioner to go before the Assessing Officer.

4 Considering the above submission and taking note of the fact that the revision of assessment has been done based on the verification of Annexure I and II details from the Departmental Website, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

5 Accordingly, the petitioner is directed to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order and on receipt of such payment, the respondent is directed to furnish full particulars of mismatch found on verification of the departmental website. The particulars should contain TIN number of the dealers, invoice numbers, the commodity code, date of transaction etc. On receipt of those details, 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. Since this Court has issued the above direction, the respondent shall not initiate any coercive action for recovery of the remaining amount of tax and penalty as quantified in the impugned order.

6 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

To

The Deputy Commercial Tax Officer [CT]
Nagapattinam Main Assessment Circle,
Nagapattinam.

+1cc to Mr.K.Soundrarajan, Advocate, S.R.No.71803
+1cc to the Spl Government Pleader, S.R.No.71511

RP(CO)
BB(29/12/2016)

WP.No.42416/2016