IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

Writ Petition No.44051 of 2016
& WMP No.37858 of 2016

Tvl.Golden Marine Harvest
represented by its Managing Partner
A.D.Saravanan Babu ... Petitioner

Vs.

1. The Commercial Tax Officer(Main),
   Tindivanam.

2. Indian Overseas Bank,
   represented by its Branch Manager,
   Konimedu Branch, Tindivanam

3. Axis Bank
   represented by its Branch Manager
   Puducherry.

4. South Indian Bank
   represented by its Branch Manager
   Puducherry.

5. Axis Bank
   represented by its Branch Manager
   Ongole - Andhra Pradesh

6. ICICI Bank
   represented by its Branch Manager
   Puducherry. ... Respondents

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records of the first respondent in TIN No.33614723268/2014-15 dated 19.08.2016 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader

O R D E R

1. Issue Notice. Mr.S.Kanmani Annamalai, accepts notice for respondent No.1.

1.1. In view of the order that I propose to pass, no notice need be issued to respondent Nos.2 to 6.

2. With the consent of counsel for parties, the Writ Petitions are taken up for hearing and final disposal.

3. By virtue of the captioned Writ Petition, challenge is laid by the petitioner to the order dated 19.08.2016, passed by respondent No.1. By virtue of the impugned order, the petitioner's liability to tax has been reassessed.

4. The short ground, on which, the petitioner approaches this Court is that the petitioner did not get adequate opportunity to represent his case. It is stated that the petitioner had changed its address from Darga Street, Koonimedu, Marakkanam, Tindivanam, Villupuram to Chettikkuppam Village, Anumanthai Village, Tindivanam Tk,Villupuram District - 604 303.

4.1. The petitioner states that prior to the passing of impugned order, though notices were issued, they were dispatched to its earlier address. According to the petitioner, the Revenue/respondent No.1 had failed to exhaust all the modes available to them under Rule 19 of the Tamil Nadu Value Added Tax Rules, 2007 (in short Rules).

4.2. It is the petitioner's contention that not only did the Revenue/respondent No.1 have with it the residential address of the petitioner's partners, but were also in possession of its e-mail address.

5. Learned counsel for the Revenue/respondent No.1, on the other hand, says that the petitioner was not only given due notice but was also an opportunity to file its objections. It is thus, the submission of the learned counsel that since, objections were not filed, the Revenue/respondent No.1 proceeded to pass the impugned order.

6. Notably, the impugned order, by itself, does not show that the petitioner was served. Having said that, while it must be recognised, that it was the bounden duty of the petitioner to inform the Revenue/respondent No.1 about the change in change of address, however, given the fact that the impugned order imposes pecuniary liability on the petitioner, the Revenue/respondent No.1 respondent, could have, perhaps, made an attempt to serve the petitioner by other means as well.

7. In these circumstances, I have put to Mr.Kanmani Annamalai, as to whether another opportunity could be given to the petitioner. Learned counsel says that the Revenue/respondent No.1 would give another opportunity to the petitioner, provided the petitioner cooperates in the reassessment proceedings.

8. Accordingly, the impugned order is set aside. The petitioner's authorised representative will appear before respondent No.1 on 03.01.2017 at 11.00 a.m. In case, the date given above, is not convenient to respondent No.1, a fresh date would be given, which would be proximate in point of time to the date fixed by the Court.

8.1. Needless to say, that before passing a fresh order, the respondent will give a personal hearing to the petitioner's authorised representative. Respondent No.1 will pass a fresh order with due expedition, though, not later than six (6) weeks from the date of the conclusion of the hearing.

9. It is made clear, that the fact that this Court has set aside the impugned order will not impact the merits of the case.

10. The Writ Petition is, accordingly, disposed of leaving the parties to bear their own costs. Consequently, connected Miscellaneous Petition stands closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer,
Tindivanam.

2.The Branch Manager,
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Konimedu Branch, Tindivanam

3.The Branch Manager,
Axis Bank,
Puducherry.

4.The Branch Manager,
South Indian Bank
Puducherry.

5.The Branch Manager,
Axis Bank
Ongole - Andhra Pradesh

6.The Branch Manager,
ICICI Bank
Puducherry.

+1cc to Mr.Adhithya Reddy, Advocate, S.R.No.74879
+1cc to the Special Government Pleader(T), S.R.No.75007

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EV(CO)
CA(30/12/2016)