IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2016

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THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.44197 of 2016
And
W.M.P.Nos.38037 and 38038 of 2016

Shri.Sembaiyanar Constructions
Represented by its Managing Partner ... Petitioner

Vs.

1 The Assistant Commissioner (CT)
Virudhachalam.

2 Commercial Tax Officer
Virudhachalam. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the proceedings of the 2nd respondent dated 31.08.2016 in TIN No.33884424408/ 2015-2016 and consequential revenue recovery notice dated 17.10.2016 Tha na ma koo va sa-2006, Mavi sa-1959 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue notice. Mr.Venkatesh, accepts notice on behalf of the respondents. With the consent of the counsel for the parties, the writ petition is taken up for final hearing and disposal.

2.By virtue of the instant writ petition, challenge is laid to the order dated 31.08.2016, passed by the second respondent and the consequential recovery notice dated 17.10.2016, whereby, the Bank accounts of the petitioner have been attached.

3.The petitioner's main grievance is that while show cause notice was issued on 29.07.2016, no personal hearing was given.

4.It is further conceded by the learned counsel for the petitioner that no reply was filed to the show cause notice. Learned counsel for the petitioner says that a rectification petition, however, has been preferred under Section 84 of the TNVAT Act, 2006. It is stated that this petition was filed with the respondents on 29.11.2016.

5. It is quite clear that this writ petition has been moved by the petitioner only to get over the limitation prescribed for preferring an appeal against the impugned order. The petitioner has come to this pass, on account of his own inaction, which is that, despite an opportunity been given, no reply was filed to the show cause notice.

6.Having regard to the overall circumstances, the only direction which can be issued for the moment, is that, the respondent should dispose of the pending rectification petition.

7.While disposing of the rectification petition, the respondent will take into account, the material filed along with the rectification petition. The respondent will pass a speaking order. For this purpose, the petitioner will present himself before the respondent on 04.01.2017 at 11.00 a.m. In case, the said date is not convenient to the respondents, he would have liberty to fix a date, approximate to the date fixed by the Court. Needless to say, the aforementioned exercise will be effected with due expedition, though, not later than eight weeks from the date of receipt of a copy of this order.

8.The writ petition is disposed of with the aforesaid directions. No costs. Consequently, pending applications are closed.

23.12.2016

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Index: Yes/ No
Internet: Yes/ No
Note: Issue order copy on or before 02.01.2017.

RAJIV SHAKDHER,J.
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To

1 The Assistant Commissioner (CT)
Virudhachalam.

2 Commercial Tax Officer
Virudhachalam.

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