IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.4992 & 5464 of 2016 and
W.M.P.Nos.4355, 4803 & 4804 of 2016

M/s.Royal Belt Traders,
rep by its Proprietor S.M.Hyder Ali,
No.73, Cuddalore Main Road,
Neyveli - 607 802. ... Petitioner in both W.Ps

Vs.

1.The Commissioner for Commercial Taxes,
Greams Road,
Chennai - 600 006.

2.The Assistant Commissioner
(Commercial Taxes),
Vridhachalam,
Cuddalore District,
Tamil Nadu.

3.The Joint Commissioner (Commercial Taxes),
Enforcement, Vellore,
Tamil Nadu. ... Respondents in both W.Ps

Petitions filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records from the file of the 2nd respondent pertaining to the proceedings in TIN:33954421799/ 2012-2013 and TIN:33954421799/2011-2012 and quash the order dated 11.09.2015 and 23.09.2015 respectively and consequently direct the 2nd respondent to afford an opportunity before passing any final order in the matter.

For Petitioner : Ms.Narmada Sampath
(in both W.Ps)

For Respondents: Mr.Kanmani Annamalai,
(in both W.Ps) Additional Government Pleader (Tax)

C O M M O N O R D E R

The petitioner has filed the above Writ Petitions to issue a writ of certiorarified mandamus to call for the records from the file of the 2nd respondent pertaining to the proceedings in TIN:33954421799/2012-2013 and

TIN:33954421799/2011-2012 and quash the orders dated 11.09.2015 and 23.09.2015 respectively and consequently direct the 2nd respondent to afford an opportunity before passing any final order.

2.It is the case of the petitioner that due to ill health of the Proprietor, the petitioner was not in a position to reply to the notices sent by the respondents and hence, without considering the objections of the petitioners, the 2nd respondent has passed the impugned orders.

3.Mr.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that the petitioner may be directed to file their objections and the 2nd respondent may be directed to consider the objections and pass fresh orders in accordance with law.

4.Having regard to the submissions made by the learned counsel on either side, taking note of the fact that the petitioner was not in a position to give their explanation to the notices sent by the respondents on the earlier occasion, in the interest of justice, I am of the view that the petitioner can be given an opportunity to file their objections within a stipulated time. Accordingly, the impugned orders dated 11.09.2015 and 23.09.2015 passed by the 2nd respondent are set aside. The petitioner is directed to file their objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of the objections, the 2nd respondent is directed to decide the matter afresh, after giving an opportunity of hearing to the petitioner. Since the impugned orders dated 11.09.2015 and 23.09.2015 have been set aside, the attachment of the bank accounts by the respondents shall stand vacated.

5.With these observations, the Writ Petitions are allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Commissioner for Commercial Taxes,
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Cuddalore District,
Tamil Nadu.

3.The Joint Commissioner (Commercial Taxes),
Enforcement, Vellore,
Tamil Nadu.

+ 1 cc to M/s. Narmadha Sampath, Advocate SR.10123

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UG(CO)
Eu 18.02.16