IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.36621 of 2004
and
W.P.M.P.No.43956 of 2004

M/s Divya Visions
rep. By its Partner R.Ravi Venkatesh ... Petitioner

vs.

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Commercial Taxes Department
Fort St.George,
Chennai-600 009.

2.The Deputy Commercial Tax Officer,
Avinashi Road Circle, Coimbatore. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to call for the records on the files of the second respondent pertaining to his order bearing Ref.No.729/03 dated 29.10.2004 and quash the same.

For Petitioner : Mr.N.Doraikannan

For Respondents : Mr.Manokaran Sundaram,
Addl.Government Pleader

O R D E R

Heard Mr.N.Doraikannan, learned counsel appearing for the petitioner and Mr.Manokaran Sundaram, learned Additional Government Pleader for the respondents.

2.The petitioner is a registered dealer with the second respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959. The challenge in this Writ Petition is to an order of assessment passed by the second respondent dated 29.10.2004.

3.According to the second respondent, the order of assessment came to be passed pursuant to the inspection conducted in the Office of the Petitioner by the Enforcement Wing Officers on 09.01.2003. The petitioner was issued with a notice proposing to demand the total taxable turnover, objections were called and the petitioner has also submitted their objections. However, the Assessing Officer, while completing the assessment, merely stated that the objections are overruled and the petitioner has not produced any documentary evidence in support of their contentions.

4.If the second respondent wanted the petitioner to produce the documents, a notice thereof could have been issued to the petitioner. The said aspect having not been done and the petitioner has obtained an order of interim stay of the impugned order at the time when the Writ Petition came up for admission on 10.12.2004, and the respondents have not filed any counter affidavit, this Court is of the view that the assessment has to be redone.

5.Accordingly, the Writ Petition is allowed and the impugned order is set aside and the matter is remanded to the second respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, call for documents, peruse the same and complete the assessment as expeditiously as possible. No costs. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa

To

1.The State of Tamil Nadu,
rep.by its Secretary to Government,
Commercial Taxes Department
Fort St.George,
Chennai-600 009.

2.The Deputy Commercial Tax Officer,
   Avinashi Road Circle, Coimbatore.

+1 cc to Special Government Pleader(Taxes)
High Court (Taxes) sr.36681/16

W.P.No. 36621 of 2004

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