IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.6.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.27457 of 2004
and
W.M.P.No.33382 of 2004

Selva Vinayaka Stores,
47, Andal Street,
Shevapet,
Salem-636 002 ... Petitioner

Vs.

1. The Deputy Commercial Tax Officer,
   Shevapet Circle,
   Salem.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005 ... 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 file of the first respondent herein in TNGST No.2640763/2002-2003 dated 19.7.2004 and quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondents : Mrs.Kanmani Annamalai, Additional Government Pleader

ORDER

Heard Mr.N.Inbarajan, learned counsel appearing for the petitioner and Mrs.Kanmani Annamalai, learned Additional Government Pleader, for the respondents.

2. The petitioner has challenged an order of assessment contending that while effecting sale of student notebooks, they have not collected sales tax in view of the exemption Notification.

3. According to the petitioner, there is an exemption Notification issued by the Government in G.O.Ms.No.96/CTRE, dated 27.3.1998. In my view, if the petitioner's case is that they are entitled to the benefit of the exemption Notification, they should have pleaded so before the authority and produced the documents, books of accounts, invoices etc. and then established their case. However, in the present case, the petitioner has neither appeared before the assessing officer and submitted any objection in spite of receipt of the pre-revision notice. Therefore, this Court cannot be asked to do the work of an assessing officer, examine the petitioner's invoices. This being a factual issue, the petitioner has to necessarily approach the assessing authority.

4. Accordingly, the writ petition is dismissed as not maintainable. The petitioner is granted three months' time to file appeal before the appellate authority and if any such appeal is filed, the appellate authority shall entertain the same without raising the issue of limitation and thereafter proceed in accordance with law. No costs. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msk

To

1. The Deputy Commercial Tax Officer,
   Shevapet Circle,
   Salem.

2. The Commissioner of Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai-600 005.

+1cc to the Special Government Pleader(T), S.R.No.34874

W.P.No.27457 of 2004

NR(CO)
CA(11/07/2016)