IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.30287 of 2017 & W.M.P.Nos.33009 & 33010 of 2017

M/s.Senthil Marketing rep.by its partner A.Sivasubramaniam ...Petitioner

Vs.

The Assistant Commissioner (CT)
Thiruvannamalai I Assessment Circle,
Thiruvannamalai. ...Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent in his proceedings in TN 33144522300/2014-15 dated 16.10.2017 and quash the same as illegal and pass orders.

For Petitioner : Mr. S.Ramanathan
For Respondent : Mr. K.Venkatesh GA

O R D E R

Heard Mr. S.Ramanathan learned counsel for the petitioner and Mr. K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. By consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner, which is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956, is aggrieved by the impugned assessment order dated 16.10.2017 for the year 2014-15 under the State Act.

3.The respondent issued a revision notice dated 31.08.2017 based on a verification of the monthly returns and the purchase details gathered from the departmental website and opined that the petitioner had suppressed the purchase turn over and therefore, proposed to revise the sales turnover and made an assessment under Section 27 of the State Act.

4.The petitioner would state that the pre-revision notice was received by one of their staff, who had misplaced the notice and did not bring it to the knowledge of the petitioner, who is a partner of the firm. The said employee is stated to have brought to the notice of the petitioner about the issuance of the revision notice only on 03.11.2017 and immediately, the petitioner is stated to have prepared the reply and met the respondent in person on 06.11.2017.

5. The petitioner would further state that the respondent orally informed him that he has already passed the order on 16.10.2017. The petitioner stated till the said date i.e 06.11.2017, he has not received any assessment order. Further, according to the petitioner, the respondent declined to afford an opportunity of personal hearing. However, the impugned assessment order has been dispatched by the respondent only on 06.11.2017, as could be seen from the postal cover. Therefore, if the order has not been dispatched till the petitioner met the respondent, the respondent could have afforded an opportunity of personal hearing to the petitioner, especially when the revision of assessment is proposed based upon the details gathered from the Departmental website.

6. In this regard, the respondent should take note of the decision of this Court in the case of JKM Graphics Solutions Private Limited Vs. CTO, Vepery Assessment Circle [reported in (2017) 99 VST 343]. In the light of the above discussions, this Court is inclined to remit the matter back to the respondent for a fresh consideration.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within 15 days from the date of receipt of the copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing

and re-do the assessment in accordance with law. Till the assessment is re-done, the respondent shall not take any coercive action to recover the taxes and penalty as quantified in the impugned assessment order. No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

smn

To.
The Assistant Commissioner (CT)
Thiruvannamalai I Assessment Circle,
Thiruvannamalai

+1cc to Mr.S.Ramanathan, Advocate, S.R.No.83579

+1cc to the Spl Government Pleader, S.R.No.83925

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RRK(/11/2017)