IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.5732 of 2017
and
W.M.P.No.6119 of 2017

M/s.Sri Ambiga Agencies,
Rep by its Partner,
D.Veeraram,
No.171/G3, Gandhi Road,
Mannargudi,
Tiruvarur District. ... Petitioner

Vs.

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Mannargudi, Tiruvarur District. ... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, calling for the records of the respondent in TIN. No.33843860666/2008-2009 dated 01.02.2017 and quash the same as illegal, arbitrary and against the principles of natural justice.

For Petitioner : Mr.K.Soundarajan

For Respondent : Mr.K.Venkatesh,
Government Advocate

O R D E R

Heard Mr.K.Soundararajan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate, appearing for the respondent.

2. The petitioner, who is a registered dealer on the file of the respondent under the provisions of Tamil Nadu Value Added Tax Act (in short “the TNVAT Act”) is aggrieved by the assessment order dated 01.02.2017, under the provisions of the TNVAT Act, a notice was issued to the petitioner, proposing to revise the assessment already made under Section 22(2) of the Act by referring to the web details. The petitioner submitted their reply on 04.01.2017 to the notice issued by the respondent, wherein they have enclosed annexures 1 and 2 of

Form-I monthly returns and stated that there is no undisclosed transaction or suppression of turnover.

3. The respondent while completing the assessment, after extracting the objections raised by the petitioner, stated that on verification of the web details, it is seen that the petitioner has effected purchases only from three dealers, whereas the petitioner's case is that they have effected purchases from seven dealers. Further, the respondent himself observed that it is possible for the petitioner to get the difference reconciliation with their sellers.

4. Though such observation was made, an opportunity to do such reconciliation was not given to the petitioner. That apart, the petitioner's explanation is that they had been filing returns showing the name of the other company as M/s.Godrej Sara lee Ltd., where as the original name of the company was Godrej House Hold Ltd. However, the TIN number for both the companies is the same and though these discrepancies were pointed out by the petitioner, the respondent did not consider the same.

5. Thus, considering the facts and circumstances of the case, this Court is of the view that one more opportunity should be granted to the petitioner to reconcile all the facts. As unlike in other web report cases, the petitioner has been able to reconcile the transaction. Therefore, sufficient opportunity should be given to the petitioner to reconcile the remaining transaction as well as in the light of the objections given by the petitioner.

6. For the above reasons, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the respondent for fresh consideration, who shall afford an opportunity of personal hearing to the petitioner, perused the records and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vsm

To

The Commercial Tax Officer,
Mannargudi Assessment Circle,
Mannargudi, Tiruvarur District.

+ 1 cc to M/s.K.Soundarajan, Advocate,SR.49519

+ 1 cc to The Govt.Pleader, SR.49440

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NR 31/07/2017