IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.07.2017

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.7916 of 2017
& W.M.P.No.8661 of 2017

Aero Blast Engineering,
No.11/24, SIDCO Industrial Estate,
Kanchipuram - 631 502.
Rep. by its partner ... Petitioner

Versus

The Assistant Commissioner (CT),
Kanchipuram Assessment Circle,
Kanchipuram. ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus to call for the records of the respondent in his proceedings leading to passing of the Assessment Order vide TIN/33941623694/2014-15 dated 16.12.2016, quash the same and direct the respondent to pass fresh revised assessment order after providing an opportunity of reply and personal hearing.

For Petitioner : Mr.S.Sathiyanarayanan
For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

ORDER

Heard Mr.S.Sathiyanarayanan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, who accepts notice on behalf of the respondent and with their consent, the writ petition is taken up for final disposal.

2.The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act 2006 (hereinafter referred to as ''the Act'') has approached this Court, challenging the order of assessment dated 16.12.2016, by which the turnover which was proposed in the notices dated 21.09.2016, 25.10.2016 and 04.11.2016 for the assessment year 2014-15 under the Act were confirmed on the ground that the petitioner did not file objections and the time stipulated in the notices had expired.

3.The petitioner would state that on 15.11.2016, they submitted an interim reply and sought for time to produce other details and requested the matter to be deferred till 31.12.2016. This letter is shown to have been received in the office of the respondent on 15.11.2016 vide endorsement in the letter delivery book. Such being the case, obviously, the respondent should not have passed the impugned order dated 16.12.2016 as false plea is raised and stating that the adjournment letter was received by some employee in the office. Firstly, it is to be noted that it is not a simple adjournment letter but it is an interim reply and in addition further time was sought for. On receipt of the interim reply, the respondent did not inform the petitioner as to whether he is agreeable to grant extension of time or not. In such circumstances, unless it is proved as to who received the communication and signed the letter delivery book by affixing the seal of Assistant Commissioner, who is not authorized to do so, the endorsement will bind the department.

4.This Court has deprecated the practice of giving acknowledgment in letter delivery book, which many times may result in false plea being raised. However, neither the Commissioner of Commercial Taxes nor the Superior Officer has paid any heed to the views expressed by this Court in this regard which may lead to the presumption that such procedure is also conducive for some of the officers of the Commercial Taxes department.

5. Hence, for all the above reasons, the impugned order is liable to be set aside. The petition is allowed and the petitioner is granted fifteen days time from the date of receipt of a copy of this order to submit his further objections along with relevant documents after which the respondent shall afford an opportunity of personal hearing to the petitioner and pass fresh orders on merits and in accordance with law. No Costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

dn/rsi

To

The Assistant Commissioner (CT),
Kanchipuram Assessment Circle,
Kanchipuram.

+1 CC to Mr.S. Sathiyanarayanan, Advocate sr 46321
+1 CC to spl. Govt. Pleader(Taxes), sr 46232

W.P.No.7916 of 2017

SP(17/07/2017)