In the High Court of Judicature at Madras

Dated : 06.12.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.31574 of 2017 & WMP.No.34697 of 2017

M/s.D.Geetha Enterprises,
rep. by its Proprietor ...Petitioner

Vs

The Assistant Commissioner (CT),
Nolambur Assessment Circle,
Station : 176-B, MTH Road,
Villivakkam, Chennai-49. ...Respondent

PETITION 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 impugned order in TIN No.33371351292/2015-16 dated 11.7.2017, quash the same as contrary to the provisions of the Tamil Nadu Value Added Tax Act and further direct the respondent to consider the petition dated 14.11.2017, received by the respondent on 17.11.2017 and pass revised order by granting relief as prayed for.

For Petitioner : Ms.C.Rekha Kumari
For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner is aggrieved by the impugned assessment order dated 11.7.2017 for the year 2015-16.

3. It is seen that though the petitioner was given an opportunity to submit their objections to the notices dated 19.4.2017 and 02.6.2017, they did not do so and consequently, the Assessing Officer was left with no option except to confirm the proposal in the notices. After suffering in the hands of the Assessing Officer, the petitioner filed a petition under Section 84 of the said Act on 14.11.2017 and stating that the said petition has not yet been considered, the petitioner is before this Court challenging the assessment order itself.

4. In view of the conduct of the petitioner in not responding to the revision notices within the time granted, the petitioner cannot now raise a contention that there is a violation of the principles of natural justice. However, considering the fact that the assessment has been completed ex parte, this Court is of the view that the petitioner can be permitted to go before the Assessing Officer.

5. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT), Nolambur Assessment Circle,
Station : 176-B, MTH Road, Villivakkam, Chennai-49.

+ 1 cc to Ms.C.Rekha Kumari Advocate,SR 86462

+ 1 cc to The Special Govt.Pleader, SR.87503

WP.No.31574 of 2017&
WMP.No.34697 of 2017

nr 26/12/2017