IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NOS.31616 & 31617 OF 2017
& WMP.NOS.34743 TO 34746 OF 2017

M/s.Madhan Agencies, rep.by
its Proprietor J.Sumthi Kumar ...Petitioner in both wp's

Vs

The Commercial Tax Officer, Vellore
(Rural) Circle, Vellore,
Vellore District. ...Respondent in both wp's

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33904323323/ 2013-14 dated 30.9.2016 and TIN No.33904323323/2015-16 dated 26.9.2016 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint 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 orders respectively dated 30.9.2016 and 26.9.2016 passed under the State Enactment for the years 2013-14 and 2015-16.

3. The petitioner cannot have any grievance with regard to the manner, in which, the Assessing Officer completed the

assessments on the ground of non cooperation of the assessee in the assessment proceedings. The petitioner did not respond to the revision notices issued by the respondent nor filed their objections. The petitioner is relying upon three decisions of this Court in support of their contention. But, this Court is of the view that it is for the dealer to file objections before the respondent placing reliance on the decisions of this Court, which the petitioner is willing to do. Further, considering the fact that the impugned orders were passed respectively on 30.9.2016 and 26.9.2016 and that till date, the respondent is not able to recover any tax or penalty as quantified in the impugned orders, this Court is inclined to grant one opportunity to the petitioner, however, subject to a condition.

4. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 15% of the disputed tax for each of the assessment years within 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 orders as show cause notices 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 assessments 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 for each of the assessment years within the time stipulated. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

RS
To
The Commercial Tax Officer,
Vellore (Rural) Circle,
Vellore, Vellore District.

+2ccs to Mrs.R.Hemalatha, Advocate, S.R.No.87011
+1cc to the Government Pleader, S.R.No.87506

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