IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.32074 and 32075 of 2017
and W.M.P.Nos.35217 and 35218 of 2017

TVL.Rahmath Corporation,
Proprietor M.Y.Pakeer Mohamed,
Rep. by the Authorised Signatory
No.76, Kothavali Street,
Lalpet, Kattumannarkoil Tk.
Cuddalore District - 608303. .. Petitioner in both W.Ps.

..Vs..

The Deputy Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Chidambaram- 608 001. .. Respondent in both W.Ps.

Prayer in W.P.No.32074 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the case relating to the impugned Recovery Notice in TIN No.33734462175/2014-2015 dated 28.01.2016 passed by the respondent herein and to quash the same.

Prayer in W.P.No.32075 of 2017: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the case relating to the impugned Recovery Notice in TIN No.33734462175/2014-2015 dated 23.11.2017 passed by the respondent herein and to quash the same.

For Petitioner in both W.Ps. : Mr.T.Ramesh
For Respondent in both W.Ps. : Mr.K.Venkatesh
Government Advocate

COMMON ORDER

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

2.The petitioner was a registered dealer with the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006

(TNVAT Act) and they are carrying on business as a sub-dealer to M/s.Akash Automobiles Private Limited, Villupuram. The said main dealer M/s.Akash Automobiles Private Limited was an authorized dealer for Bajaj Auto Limited. According to the petitioner, they have closed down their business and a letter to the said effect was sent to the respondent on 20.09.2013. The petitioner having closed down their business was unaware about the proceedings initiated by the respondent by which the respondent has assessed the petitioner on best of judgment basis, that too, based upon the details culled out from the departmental website. The petitioner would submit that all the two wheelers dealt by them were tax suffered goods and the question of demanding tax from the petitioner does not arise, that too, for the period when there is no business activity.

3.Learned Government Advocate, on instructions, submitted that the respondent has not received the intimation dated 20.09.2013 about the closure of the dealership and in their records, the registration of the petitioner is still valid.

4.Be that as it may, since the petitioner claims to have closed down the business and the goods dealt by them are two wheelers, the respondent would be easily able to verify the fact as if the relevant materials are placed before him by the petitioner. With that view in mind, this Court is inclined to give one more opportunity to the petitioner by going before the Assessing Officer and placing all the materials.

5.In the light of the above, the writ petitions are disposed by directing the petitioner to treat the impugned assessment orders dated 28.01.2016 and 23.11.2017 as show cause notices and submit their objections to the same enclosing the relevant documents within a period of fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and pass fresh orders on merits and in accordance with law. Till such orders are passed, no coercive action shall be initiated against the petitioner for recovery of the tax and penalty as quantified in the impugned assessment orders. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

cse

To

The Deputy Commercial Tax Officer,
Chidambaram-II Assessment Circle,
Chidambaram- 608 001.

+1 CC to Mr.T. Ramesh, Advocate sr 91746.
+1 Cc to Spl. Govt. Pleader sr 91773.

W.P.Nos.32074 and 32075 of 2017
and W.M.P.Nos.35217 and 35218 of 2017

SP(11/01/2018)