IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.32084 of 2017
and W.M.P.Nos.35229 to 35231 of 2017

M/s.Lakshmi Agencies,
Represented by its Proprietor
Mr.G.Krishnan,
No.4/31A, Main Road,
Umaiyalpuram, Ananthapuram Post,
Villupuram District. .. Petitioner

..Vs..

The Assistant Commissioner,
Villupuram-I Assessment Circle,
Villupuram. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the impugned proceedings of the respondent in TIN 33094682717/2010-2011 dated 22.05.2013 and quash the same as passed without granting reasonable opportunity including a personal hearing as contemplated under proviso to Section 22(4) of the TNVAT Act.

For Petitioner : Mr.P.Rajkumar
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.P.Rajkumar, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondent. With the consent on either side, the writ petition is taken up for 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 (TNVAT Act). The petitioner has impugned the order of assessment dated 22.05.2013 for the assessment year 2010-2011 under the TNVAT Act. As the petitioner has approached this Court after more than four years from the date of the assessment order would be a good and sufficient ground to dismiss this writ petition at the very threshold. However, this Court does not proposed to do the same in the present case on account of two factors. Firstly, the issue arose out of non-filing of returns and not maintaining proper accounts in the first year of business. Secondly, what is more important is that the respondent though passed the order on 22.05.2017, till date the same has not been given effect to and the tax which has been quantified has not been recovered. Thus, this Court is inclined to grant one more opportunity to the petitioner to remedy the breach subject to stringent conditions.

3.Accordingly, the writ petition is disposed of by directing the petitioner to pay 25% of the disputed tax as computed by the respondent for the assessment year 2010-2011 and if such payment is made within a period of six weeks from the date of receipt of a copy of this order, the petitioner will be entitled to treat the assessment order as show cause notice and submit their objections within a period of fifteen days therefrom. On receipt of the objections, the respondent is directed to afford an opportunity of personal hearing to the petitioner and re-do 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 25% of the disputed tax within the time stipulated. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

cse

To

The Assistant Commissioner,
Villupuram-I Assessment Circle,
Villupuram.

+1cc to Mr.V.Rajkumar, Advocate SR.No.87865
+1cc to Special Government Pleader SR.No.88335

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SSI(CO)
GN(02/01/2018)