IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22316 of 2017 &
W.M.P.No.23406 of 2017

M/s.Jambu Agencies and Hardwares,
Rep. by Proprietor, Mr.J.Raju,
No.3,Thirumalai Nagar, Annex
Perungudi, Chennai.96 ...Petitioner

Vs.

1.The Assistant Commissioner (CT)
Sholinganallur Assessment Circle,
No.141, Burnma Colony, 1st Main Road,
Perungudi. Chennai-96.

2. The Branch Manager, Karur Vysya Bank,
Perungudi Branch, Chennai.96. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the files of the 1st respondent proceedings in TIN/33190920517/2013-14 dated 01.03.17 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Court.

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mrs.Narmadha Sampath
Special Government Pleader

O R D E R

Heard Mr.D.Vijayakumar, learned counsel appearing for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader appearing for the respondents. With the consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner is before this Court for the second time in respect of an assessment under the provisions of the Tamil Nadu Value Added Tax Act 2006, (in short "TNVAT Act") for the assessment year 2013-14. Earlier the petitioner filed a writ petition in W.P.No.37523 of 2016, challenging the assessment order dated 31.12.2015, on the ground that the petitioner did not have adequate opportunity to submit their objections. The court after taking into consideration the factual matrix by order dated 26.10.2016, disposed of the writ petition by imposing two conditions.

3.Firstly, that the petitioner should pay 15% of the disputed tax within a time frame. If the petitioner complies with the said order, he is entitled to submit his objections by treating the assessment order dated 31.12.2015 as a show cause notice. Admittedly, the petitioner complied with the condition and remitted 15% of the disputed tax along with his representation dated 20.12.2016.

4.In the said representation, the petitioner while disputing tax alleging that they have done business over and above Rs.10,00,000/- requested details of the alleged huge sales effected by the petitioner, so that they could file their objections. The respondent on receipt of the same has issued 2 (two) days notice dated 01.03.2017 this is in fact, a demand. On receipt of the same, the petitioner has given a representation on 07.03.2017, stating that their request for furnishing of records and details has not been complied with and therefore, they were unable to file objections.

5.Thus, considering the factual matrix, the appropriate procedure that should have been adopted by the respondent is to respond to the petitioner's representation dated 20.12.2016 and furnish the available details, as according to the respondent, there is mismatch with regard to details found in the official website of the Department when compared with the turnover reported in the monthly returns of the petitioner. Unless and until, the petitioner is furnished with the details, they will not be in a position to put forth an effective objection.

6. Accordingly, while directing the respondent to keep themselves restrained from recovering any amount by way of bank attachment, there will be a direction to the respondent to furnish necessary details within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the petitioner shall furnish their objections within a period of ten days thereafter. After which, the respondent shall afford an opportunity of personal hearing and redo the assessment on merits and in accordance with law. The petitioner allowed is granted common order copy of this order.

With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

abr

To

The Assistant Commissioner [CT]
Sholinganallur assessment circle,
No.141,Burnma Colony, 1st Main Road,
Perungudi. Chennai-96.

+ 1 cc to Mr. D. Vijayakumar, Advocate Sr.65688
+ 1 cc to the Government Pleader Sr.65730

W.P.No.22316 of 2017

BR(CO)
EU(27/10/2017)