IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.32858 of 2017
and
W.M.P.No.36216 of 2017

M/s. Aruneshwara Hi Tech,
rep. by its Proprietor.
Tiruvannamalai District. ...Petitioner

Vs.

The Commercial Tax Officer,
Tiruvannamalai I Assessment Circle,
Tiruvannamalai District. ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records of the respondent and to quash the assessment proceedings in TIN No.33594522586/2015-16, dated 30.08.2017, and to direct the respondent to pass fresh orders without relying on the details, in the sales tax department website, but by verifying the purchases and sales of the petitioner after providing an opportunity for personal hearing.

For Petitioner : Mr. C. Baktha Siromoni
For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr. C. Baktha Siromoni, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, the 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, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) has approached this Court, challenging the order of assessment, dated 30.08.2017, under the provisions of the TNVAT Act for the assessment year 2015-16.

3. The petitioner did not file their objections to the Revision Petition, dated 09.08.2017. Therefore, the respondent, having left with no other option, confirmed the

proposal made in the revision notice. Therefore, the petitioner cannot state that the impugned order has been passed in violation of the principles of natural justice, as it is a case, where, assessee/petitioner did not avail the opportunity granted. However, taking note of the fact that the petitioner is a dealer in agricultural implements, and is ready and willing to reconcile the data culled out from the Department website, as compared to the details furnished in the monthly returns, this Court is inclined to afford one more opportunity to the petitioner, subject to certain conditions.

4. Accordingly, this Writ Petition is disposed of, by directing 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 condition, i.e. by remitting 15% of the disputed tax, then, the petitioner will be entitled to treat the impugned assessment order as show cause notice and submit their objections within a period of 15 days therefrom, and, on receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, and peruse the documents and redo the assessment in accordance with law. Till revised assessment orders are passed, no coercive action shall be initiated against the petitioner for recovering the balance amount of tax and penalty. On the other hand, if the petitioner fails to comply with the condition imposed by this Court, i.e., payment of 15% of the disputed tax within the stipulated time, then, the benefit of this order will not enure to the petitioner, and the Writ Petition shall be dismissed automatically, without further reference to this Court. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Tiruvannamalai I Assessment Circle,
Tiruvannamalai District.

+1cc to Mr.Baktha Sironmani, Advocate SR.No.90325
+1cc to Special Government Pleader SR.No.90371

Writ Petition No.32858 of 2017

TM(CO)
GN(17/01/2018)