IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.22518 of 2017
&
WMP.No.23638 of 2017

Tvl.Jeevalakshmi Blue Metals
Represented by its Proprietor
Thollamur, Eraiyur Post,
Vannur Taluk - 604 304. ... Petitioner

Vs.

The commercial Tax Officer (Main),
Tindivanam. ...Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, direction calling for the order of the Respondent in TIN No.33484722709/2013-14 dated 19.08.2016.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mrs.Narmadha Sampath
Special Government Pleader

O R D E R

Heard Mr.Adithya Reddy, learned counsel appearing for the petitioner and Mrs.Narmadha Sampath, learned counsel appearing for the respondent. With consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by an order of assessment dated 19.08.2016 under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the assessment year 2013-14. Admittedly, the petitioner did not submit his objections to the revision notice dated 10.06.2016 and therefore, the respondent confirmed the proposal of notice and completed the assessment.

3. The petitioner's case is that, identical notice was issued on 15.07.2015 for which the petitioner submitted a reply on 24.08.2015 and after about one year, another notice

containing the same allegations was sent to the petitioner and due to the health reasons, the petitioner could not submit his objections.

4. It is submitted by the learned counsel appearing for the petitioner that the petitioner is a small-time dealer and a presumption raised in the notices, dated 15.07.2015 and 10.06.2016, as confirmed in the impugned assessment orders, is not sustainable, as only three invoices were seized by the check-post officials when the materials were transported.

5. Considering the fact that the petitioner is a small-time dealer and the amount of tax demanded, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer, subject to certain conditions. Accordingly, the petitioner is directed 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 said condition, the petitioner will be entitled to treat the impugned assessment order as the show cause notice and submit objections, within a period of two weeks thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and re-do the assessment in accordance with law. If the petitioner fails to comply with the condition the benefit of this order will not enure to the petitioner and it is open to the petitioner to pursue other remedies available under the Act.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The commercial Tax Officer (Main),
Tindivanam.

+1cc to Mr.Adithya Reddy, Advocate SR.No.61374

W.P. No.22518 of 2017

GN(04/10/2017)