IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.07.2017

Coram

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

Writ Petition No.231 of 2017
and
W.M.P.No.223 of 2017

Tvl.Dynamic Panels and Controls Pvt. Ltd.,
rep. by its Managing Director
Mr.Dany Heston,
1/255 A, Indira Nagar Main Road,
Near L & T Training Centre,
Manapakkam, Chennai - 600 116. ...Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Commercial Taxes & Registration,
Fort St. George,
Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
2nd Floor, Ezhilagam,
Chepauk, Chennai - 600 005.

3. The Assistant Commissioner (CT)
Nandambakkam Assessment Circle,
17, Loganathan Nagar, 2nd Street,
Choolaimedu,
Chennai - 600 094.

4. The Assistant Commissioner (C.T.)
Guindy Assessment Circle, C.T.Building,
Pasumpon Muthuramalingam Road,
Raja Annamalaipuram,
Chennai - 600 028. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for records, relating to the revision of the assessment order passed by the third respondent, in his order, TIN 33970845689/2013-14, dated 21.10.2016, received by the petitioner, on 06.12.2016, and to quash the same and to direct the third respondent to afford an opportunity of personal hearing to the petitioner, after furnishing the copies of the sales invoice copies, annexure II of the selling dealer, mode of the transportation and then, to pass fresh order for assessment year 2013-14.

For Petitioner : Mr.M.MD.Ibrahim Ali

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.M.MD.Ibrahim Ali, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, the learned Government Advocate, for the respondents. With the consent of parties, the Writ Petition is taken up for final disposal.

2. Though the Writ Petition was entertained and interim order was granted recording the submission of the petitioner that the revision notices, dated 13.10.2016 and 07.10.2016, were not received by the petitioner, and order of assessment was passed on 21.10.2016, and the same was received by the petitioner on 16.12.2016, till date, the respondent have not filed counter affidavit. Record of the proceedings show that the matter has been adjourned for more than six occasions, and as on date, counter affidavit has not been filed. Therefore, this Court is inclined to keep this Writ Petition pending any more, and proceeding to dispose of the same based on the available material.

3. The petitioner, who is a registered dealer on the file of the third respondent, is aggrieved by the order of assessment, dated 21.10.2016, for the assessment year, 2013-14, which has been received by the petitioner on 16.12.2016. The only ground, on which, the assessment order has been impugned, is by contending that the petitioner has not been served with the revision notices, dated 13.10.2016 and 07.10.2016. On a perusal of the impugned assessment order, it is not clear as to on what date, the petitioner is stated to have received the notices dated 13.10.2016 and 07.10.2016. As this aspect has not been specifically set out in the impugned order, and no counter affidavit has been filed to the Writ Petition, when, such specific grounds have been raised by the petitioner, this Court is inclined to accept the stand taken by the petitioner. However, for that reason, the impugned order cannot be set aside, and this Court opines that suffice it would to direct the petitioner to treat the impugned order as a show cause notice

and submit their objections, based on which, the respondent shall redo the assessment.

4. Accordingly, the Writ Petition is disposed of, by directing the petitioner to treat the impugned order as a show cause notice and submit their objections within a period of 15 days from the the date of receipt of a copy of this order, and on receipt of the objections, the respondent is directed to afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1. The State of Tamil Nadu,
rep. by its Secretary to Government,
Department of Commercial Taxes &
Registration,
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Chennai - 600 009.

2. The Commissioner of Commercial Taxes,
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Pasumpon Muthuramalingam Road,
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Chennai - 600 028.

+1cc to Mr.M.MD.Ibrahim Ali, Advocate Sr. 46423
+1cc to the Special Government Pleader (Taxes) Sr. 46481

Writ Petition No.231 of 2017

AR(IV)
VR(20/07/2017)