IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.07.2017
CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13959 of 2017
and
W.M.P.Nos.15154 and 15155 of 2017

T.Annamalai .. Petitioner

Vs

1.The Assistant Commissioner (CT),
J.J.Nagar Assessment Circle,
38, 39 & 42, First Floor,
J.J.Complex, Thirumangalam,
Anna Nagar, Chennai-600 040.

2.The Commercial Tax Officer,
J.J.Nagar Assessment Circle,
38, 39 & 42, First Floor,
J.J.Complex, Thirumangalam,
Anna Nagar, Chennai-600 040. .. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the respondent in TIN/33716284040/2015-16 dated 12.04.2017 and consequential revenue recovery notice of the respondent dated 25.05.2017 in R.C. No.PDL.01/2017/A3 and quash the same.

For Petitioner : Mr.Aditya Reddy

For Respondents : Mr.K.Venkatesh,
Government Advocate

ORDER

Heard Mr.Aditya Reddy, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2.The petitioner has filed this writ petition challenging an order of assessment dated 12.04.2017 under the provisions of the Tamil Nadu Value Added Tax, 2006 and the revenue recovery notice dated 25.05.2017 seeking to recover the arrears of tax for the assessment year 2015-2016.

3.The short ground on which the petitioner has challenged the impugned order is by contending that the respondents, though aware that the assessee M/s.Garuda Motors was no longer continuing in the address to which the show-cause notice and assessment order were issued, in spite of that, they had sent it to the said address and completed the assessment, however while issuing the recovery notice, the same has been sent to the petitioner's residential address which was well within the knowledge of the respondents. Therefore, the pre-assessment notice dated 13.03.2017 ought to have been sent to the petitioner's address. This submission was taken into consideration and this Court, by order dated 06.06.2017, granted an interim order by directing the respondents not to take any coercive steps. This interim order was subsequently extended on four occasions and when the matter is taken up today, no counter affidavit has been filed.

4.On a perusal of the assessment order as well as the impugned recovery notice, it is clear that the assessment order has been communicated to the address in the Ambattur Industrial Estate, whereas the recovery notice has been sent in the name of the petitioner to his address at Palavakkam. Thus, this Court is of the view that the petitioner should be granted one more opportunity to put forth their submissions.

5.Accordingly, the petitioner is directed to treat the impugned assessment order dated 12.04.2017 as show-cause notice and submit their objections within a period of fifteen days from the date of receipt of a copy of this order and on receipt of the objections, the second respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law.

6.In view of the above direction, no coercive steps shall be initiated against the petitioner to recover the demand quantified in the impugned assessment order, till fresh orders are passed in accordance with law.

7.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

KM

To

1. The Assistant Commissioner (CT),
   J.J.Nagar Assessment Circle,
   38, 39 & 42, First Floor,
   J.J.Complex, Thirumangalam,
   Anna Nagar, Chennai-600 040.

2. The Commercial Tax Officer,
   J.J.Nagar Assessment Circle,
   38, 39 & 42, First Floor,
   J.J.Complex, Thirumangalam,
   Anna Nagar, Chennai-600 040.

+ 1 cc to M/s.Adithya Reddy, Advocate,SR.53628

+ 1 cc to The Special Govt.Pleader(Taxes), SR.54106

W.P.No.13959 of 2017
and
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KGK(CO)
NR 27/07/2017