IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.14099 of 2017 &
W.M.No.15310 of 2017

M/s.Popular Hardware Mart,
Rep. by its Partner, No.6,
Chetty Street, Kattumannar Koil,
Cuddalore District - 608 081. ... Petitioner

Vs.

Commercial Tax Officer,
Chidambaram II Assessment Circle,
No.99-100, South Street,
Chidambaram - 608 081. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the respondent in his proceedings in TIN No.33134460080/2013-14, dated 30.03.2017 and to quash the order passed therein and to direct the respondent to pass revised orders pursuant to the amended provisions of Section 3(4) of the TNVAT Act, 2006 and to provide an opportunity of personal hearing under compounding scheme.

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

O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent. With the consent on either side, the writ petition itself is taken up for final disposal.

2.The petitioner who runs a small Hardware shop in Chidambaram and registered as a dealer on the file of the respondent, has approached this Court challenging an order of assessment, by which the petitioner's turn over has been assessed to have crossed more than Rs.50,00,000/- and therefore, the Assessing Officer has denied the benefit of payment of tax under Section 3(4)(a) of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act).

3.The learned counsel for the petitioner would submit that the petitioner is a very small dealer running a hardware shop and he is too illiterate and has procured certain agricultural equipments from Palacod, Kerala State for a value of Rs.30,288/- during the year 2013-14. These items, which were purchased by the petitioner, were all agricultural implements and the goods are exempted from Sales Tax in the State of Tamil Nadu. Therefore, it is submitted that the respondent ought not to have disallowed the concession levy of tax under Section 3(4) of the Act. However, it is seen that for the revision notice issued by the respondent, the petitioner did not submit their objections within the time permitted. Therefore, necessarily the Assessing Officer had to complete the assessment by confirming the proposal in the notice, dated 14.03.2016.

4. Taking into consideration the fact that the petitioner is a small dealer and his claim is that the what has been purchased by him are all exempted items, this Court is of the view that one more opportunity can be granted to the petitioner to file their objections and to produce necessary records before the respondent to establish what was purchased by them is only exempted items.

5.For the above reasons this Writ Petition is allowed, the impugned order is set aside and the matter is remanded to the respondent for fresh consideration. The petitioner is directed to submit their objections to the notice dated 14.03.2017 within a period of 15 days from the date of receipt of a copy of this order and also produce proof to show what are the types of materials purchased by him from Palacode, Kerala State and on receipt of the objection, the respondent shall afford an opportunity of personal hearing to the petitioner, examine the materials which has been purchased and if they are agricultural implements, extend the benefit of exemption and accordingly, re-do the assessment in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

abr/pbn

To

Commercial Tax Officer,
Chidambaram II Assessment Circle,
No.99-100, South Street,
Chidambaram - 608 081.

+1 cc to M/s.C.Baktha Siromoni Advocate sr 48564
+1 cc to the Government Pleader sr 48308

W.P.No.14099 of 2017 &
W.M.No.15310 of 2017

rr(co)
aa02/08/2017