In the High Court of Judicature at Madras

Dated : 07.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.24104 of 2017 & WMP.No.25448 of 2017

Raja Vilas Jewellery, rep.by its
Proprietor Mr.M.Hariharan ...Petitioner

Vs

The Commercial Tax Officer (CT),
Mannargudi Assessment Circle,
Mannargudi, Nagapattinam
District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the case from the file of the respondent, quash the impugned ex parte order of assessment in TIN/33853862358/2015-16 for TNVAT assessment year 2015-16 dated 06.7.2017 and direct the respondent to grant an opportunity of personal hearing.

For Petitioner : Mr.B.Sivaraman
For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and at present, under the Central Goods and Services Tax Act, 2017 and the Tamil Nadu Goods and Services Tax Act, 2017. The petitioner is a retailer, engaged in gold, silver and diamond jewelery business.

3. The petitioner received a notice from the respondent dated 03.3.2017 stating that on scrutiny of the records, it was found that the petitioner had effected purchases from many dealers in the State and that the details have been gathered from Annexure 2 of the other end dealer as found in the departmental website. It was further alleged that the petitioner failed to report the purchases to the tune of Rs.1,26,42,861/- and that the respondent proposed to treat the same as purchase omission and the corresponding sales suppression. It was also alleged that the respondent proposed to levy tax apart from proposing to levy penalty under Section 27(3)(c) of the Tamil Nadu Value Added Tax Act, 2006. Further, the petitioner was granted 15 days' time to submit their objections.

4. The petitioner received the notice dated 03.3.2017 on 10.3.2017. Immediately thereafter, on 31.3.2017, they submitted a representation requesting for ten days' time to submit their objections, as it appears that the staff of the office of their Chartered Accountant had incorrectly filed returns. Therefore, the petitioner wanted the respondent to accept the monthly returns. However, the respondent, construing the representation dated 31.3.2017 received on 03.4.2017, as an objection, completed the

assessment. In the representation dated 31.3.2017, the petitioner sought for an adjournment only apart from mentioning that some error has crept in while filing the monthly return. Therefore, the said letter dated 31.3.2017 cannot be construed as an objection.

5. Considering the facts and circumstances of the case and the nature of allegation made against the petitioner, the writ petition is disposed of with a direction to the petitioner to treat the impugned proceedings as a show cause notice and submit their objections within a period of 15 days' from the date of receipt of a copy of this order. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. No costs. Consequently, the above WMP is closed.

07.9.2017

Internet : Yes

To
The Commercial Tax Officer (CT), Mannargudi Assessment Circle,Mannargudi, Nagapattinam District.

RS

<u>T.S.SIVAGNANAM,J</u>

RS

WP.No.24104 of 2017&
WMP.No.25448 of 2017

07.9.2017