IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.9279 of 2009 & M.P.No.1 of 2009

M/s.V.M.G.Enterprises,
rep. by its Proprietor,
V.M.G.Sampath Kumar,
62, Arcot Road, Vellore-1. ... Petitioner

Vs.

The Assistant Commissioner (CT) (FAC),
Vellore (Rural), Vellore. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records on the files of the respondent in TIN.No.33874320963/2007-08 dated 01.04.2009, and quash the same as being contrary to the principles of natural justice, without jurisdiction and authority of law.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

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O R D E R

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondent.

2.The petitioner has filed this writ petition challenging the order of assessment dated 01.04.2009, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2007-08. The only point urged in this writ petition is by stating that the impugned order has been passed in violation of principles of natural justice, since the petitioner's request for extension of time to submit their objections though accepted by the authority has not been granted and assessment has been finalized. On a perusal of the impugned order, it is seen that the petitioner has been given sufficient time by the assessing officer. From the facts, it is clear that the petitioner was dragging on the matter and not cooperating in the assessment proceedings. On three occasions, the respondent has granted time, still the petitioner did not utilize the opportunity. Therefore, the petitioner cannot complain of violation of principles of natural justice. However, considering the fact that the writ petition is pending since 2009, and an order of interim stay was granted, the entire assessment proceedings have come to standstill and it may have an effect on the assessment for the subsequent years also. Therefore, this Court is of the view that the matter can be remanded to the respondent for fresh consideration subject to certain conditions that may be imposed on the petitioner.

3.Accordingly, this writ petition is disposed of by directing the petitioner to pay 10% of the disputed tax for the assessment year 2007-08 within a period of 30 days from the date of receipt of a copy of this order. If such condition is complied with, then the petitioner is entitled to treat the impugned proceedings as show cause notice and submit their objections within a period of 15 days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. If the petitioner fails to comply with the condition in payment of 10% of the disputed tax, the writ petition will stand automatically dismissed without further reference to this Court. If the petitioner complies with the order, till the matter is disposed of afresh, no coercive action shall be initiated against the petitioner for recovery of the balance tax and penalty.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

abr

To

The Assistant Commissioner (CT) (FAC),
Vellore (Rural), Vellore.

W.P.No.9279 of 2009

RRK(14/12/2017)