IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.50293 of 2006

Tvl.Mittulaul Lalah & Sons
No.72, Nelson Manickam Road,
Chennai-600 029. ... Petitioner

Vs.

1.The Appellate Assistant Commissioner CT III,
Chennai.

2.The Commercial Tax Officer,
Vadapalani I Assessment Circle,
Chennai. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records of the second respondent herein in TNGST No.1460019/2003-2004 dated 30.10.2006 and quash the same as illegal, unlawful and unconstitutional.

For Petitioner : Mr.R.Ganesh Kanna

For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.R.Ganesh Kanna, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2.The petitioner has challenged the notice dated 30.10.2006, which has been issued by the assessing officer after the petitioner's appeal petition in A.P.No.1 of 2006, dated 22.02.2006, was disposed of by the Appellate Assistant Commissioner (CT) III, Chennai-108. This appeal was filed against the order of the Commercial Tax Officer, dated 29.07.2005, passed under the provisions of the Tamil Nadu General Tax Act, 1959 (in short "TNGST Act"), for the assessment year 2003-04. The petitioner is before this Court challenging the impugned notice stating that certain issues, which were dealt with by the Appellate Assistant Commissioner holding in favour of the petitioner have not been considered by the assessing officer while issuing the impugned notice. In any event, the impugned proceedings being only a show cause notice, proper procedure to be adopted by the petitioner is to submit their reply to the notice, which, in fact, they have submitted on 17.11.2006. Therefore, the assessing officer has to adjudicate the matter after affording an opportunity of personal hearing to the petitioner.

3.In the light of the above, this writ petition is disposed of by directing the second respondent to fix a date for personal hearing, consider the reply given by the petitioner and any other additional material that the petitioner may produce, examine the true copies of the records thoroughly and pass orders on merits and in accordance with law. The petitioner is at liberty to produce all the records, which they had filed before the appellate authority. Likewise, the assessing officer may also address the appellate authority to consign the records back to enable him to complete the assessment. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Appellate Assistant Commissioner CT III,
Chennai.

2.The Commercial Tax Officer,
Vadapalani I Assessment Circle, Chennai.

+1 cc to Spl Govt Pleader sr 75206

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