IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :04.07.2017

Coram:

The Hon'ble Mr.Justice T.S. SIVAGNANAM

W.P.No. 15209 of 2017
and
W.M.P.Nos. 16489 & 16490 of 2017

Tvl. SP Traders,
Represented by its Proprietor
No.2/223, Main Road, Ambedkar Nagar,
Thuthipet,
Ambur. ..Petitioner

Versus

The Commercial Tax Officer,
Gudiyatham
(West). ..Respondent

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the respondent in order dated 14.01.2016 in TIN No. 33874343758/2014-2015 and consequential Recovery Notice, dated 25/11/2016 in Va.V.No. 33874343758 and quash the same.

For petitioner : Mr. Adithya Reddy

For respondent : Mr. K. Venkatesh,
Government Advocate

O R D E R

Heard Mr.Adithya Reddy, learned counsel appearing for the petitioner and Mr.K.Venkatesh, Government Advocate accepting notice on behalf of the respondent. With the consent on either side, the Writ Petition itself is taken up for final disposal.

2. The petitioner who is a registered dealer on the file of the respondent under the Provisions of Tamil Nadu Value Added Tax Act 2006, (TNVAT Act) earlier approached this Court by filing W.P.No.11130 of 2017, praying to set aside the order, dated 25.11.2016, which is a demand notice issued to the petitioner calling upon him to pay tax and penalty for the assessment year 2014-15 as per the order of assessment dated 14.01.2016.

3. The petitioner contended that no assessment proceedings were initiated, no notice was issued to the petitioner and the assessment order was not served on the petitioner. Taking into consideration all these facts, this Court disposed of the said Writ Petition by the order dated 28.04.2017, directing the respondent to consider the petitioner's representation wherein he sought for not to enforce the demand without serving the copy of the assessment order. After the disposal of the Writ Petition, the respondent has served the copy of the assessment order, which is dated as 14.01.2016, but in the typed portion in page No.1 of the order, it is shown as 02.02.2016. It is not known as to why such a correction was effected especially when the despatch seal is shown as 24.02.2016. In any event, the petitioner had no opportunity to contest the proceedings nor submit his objections. Therefore, this Court is of the view that the petitioner should be granted an opportunity to put forth his objections.

4. Accordingly, the Writ Petition is disposed of, by directing the petitioner to treat the impugned assessment order as a show cause notice and submit his objections, within a period of 15 days from the date of receipt of a copy of this order and 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. The petitioner is entitled to canvass all legal and factual contentions and if the same is raised before the respondent, the respondent shall take note of the same and pass a reasoned order on merits and in accordance with law. Till such orders are passed in terms of the above direction, no coercive action shall be initiated against the petitioner for recovery of the tax and penalty as quantified in the impugned order.

The Writ Petition stands disposed of. Connected W.M.Ps are closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To
The Commercial Tax Officer,
Gudiyatham (West).

+ 1 cc to M/s.Adithya Reddy, Advocate,SR.46319
+ 1 cc to Government Pleader, SR.46499

W.P.No. 15209 of 2017

SAI(CO)
NR 24/07/2017