IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.8991 of 2009 and
M.P.No.2 of 2009

Tvl.Suriya Cladding and Glazing Pvt. Ltd.,
Represented by its Managing Director,
Lekha M.Prasad
41-E, North Phase,
Thiru-Vi-Ka Industrial Estate,
Ekkaduthangal, Chennai - 97. ... Petitioner

Vs.

The Commercial Tax Officer,
Guindy Assessment Circle,
Chennai - 28. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records of the respondent in TNGST/090/2004-05 dated 19.1.07 and the consequential proceedings of the respondent in R.C. 566/08, A3 dated 11/06/08, quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.K.Venkatesh
Government Advocate

ORDER

Heard Mr.S.Raveekumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondent.

2.The petitioner has challenged the assessment order passed by the respondent under the provisions of the Tamil Nadu General Sales Tax Act, 1959 for the assessment year 2004-2005. The impugned order has been challenged on the ground of violation of principles of natural justice, since the petitioner requested the Assessing Officer to extend time to submit their objections because they had to secure documents from the people for whom they had carried out certain construction and civil contract work. However, the assessment order was passed without affording reasonable opportunity to the petitioner. From the record of the proceedings, it is seen that the petitioner has paid the entire tax as demanded in the impugned order and penalty alone remains to be unpaid.

3.Considering the fact that this writ petition is pending before this Court and an order of stay has been granted and no counter affidavit has been filed, though more than six years have elapsed, this Court is inclined to afford one more opportunity to the petitioner to put forth their objections before the Assessing Officer.

4.Accordingly, the Writ Petition is disposed of, by directing the petitioner to treat the impugned assessment order dated 19.01.2007 as a show cause notice and submit their objections within a period of 15 days from the date of receipt of 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. The tax which has been paid by the petitioner shall abide by the fresh orders to be passed on remand. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Sgl
To

The Commercial Tax Officer,
Guindy Assessment Circle,
Chennai - 28.

+ 1 cc to Mr. S. Raveekumar, Advocate SR.78875
+ 1 cc to Mr. Government Pleader Sr.78967

W.P.No.8991 of 2009

CS-IV
EU(06/12/2017)