IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.27473 of 2017
and
W.M.P.Nos.29362 & 29363 of 2017

M/s.G.T.Agencies ...Petitioner

Vs.

The Commercial Tax Officer,(Main)
Tindivanam, Villupuram District. ..Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN.33764724010/2015-16 dated 29.06.2017 quash the same as illegal and contrary to the scheme of the act and pass orders.

For Petitioner : Mr.R.Hemalatha
For Respondent : Mr.K.Venkatesh, GA

O R D E R

Heard Mrs.R.Hemalatha learned counsel for the petitioner and Mr.K.Venkatesh learned Government Advocate for the respondent. By consent, the writ petition are taken up for final disposal.

2.The petitioner, who is a registered dealer on the file of the respondent, is before this Court challenging an assessment order dated 29.06.2017 passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2015-2016.

3. Admittedly, the petitioner did not respond to the revision notices dated 17.03.2017 and 31.05.2017. The respondent - Assessing Officer has scrupulously followed the provisions of the said Act and simultaneously sent the notices to the principal place of business of the petitioner, the branch office and the residence of the proprietor. The petitioner was indifferent and returned the notices sent to the principal place of business and the branch office and the same were returned by the Postal Department with an endorsement "unclaimed".

4. However, it appears that the petitioner could not do so when the notice was sent to the residence and it was received on 05.6.2017. However, the petitioner did not respond to the notice nor filed their objections. Therefore, the respondent was justified in completing the assessment as done in the impugned order.

5.The learned counsel for the petitioner submits that it may be true that the petitioner did not respond to the revision notices. But, they have a case on merits, as the respondent passed the impugned order based on purchases/sales culled out on verification of Departmental Website of the other end dealers in Annexure II and made additions for probable suppression. It is further submitted that if one more opportunity is given to the petitioner they would be in a position to demonstrate that the additions made by the respondent on the ground of probable suppression is without any basis.

6. Considering the fact that the assessment order has been passed on 29.06.2017 and till date, the respondent has not been able to recover even a portion of the tax as quantified, this Court is inclined to give one more opportunity to the petitioner subject to a condition.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 25% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner if the petitioner fails to comply with the condition of payment of ***25%** of the disputed tax within the time stipulated. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar
dated:09/11/2017

(*)corrected order as per order of the court dated 05/12/2017 made in WP No.27473/17

Sd/-
Assistant Registrar (CS-V)
dated 15/11/2017

//True Copy//

Sub Assistant Registrar

To

1. THE COMMERCIAL TAX OFFICER,
TINDIVANAM, VILLUPURAM DISTRICT.

To be substituted the order already dispatched on 04/12/2017

+1 C.C. to Mr.R.Hemalatha Advocate SR.No. **86201**

+1 C.C. to The Special Government Pleader SR.No. 75900

W.P.No. 27473 of 2017

T.R (16/11/2017)
TR(06/12/2017)