IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM:

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.17755 of 2017
and
W.M.P.No.19268 of 2017

M/s.Tulsi Electricals,
Represented by its Proprietor
55-C, Taluk Office Road,
Hosur. .. Petitioner

Vs.

The Commercial Tax Officer,
Hosur South,
Hosur. .. Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari or any other appropriate writ, order or direction in the nature of Writ calling for the records of the respondent in order dated 28.04.2017 in TIN.33583361259/2015-16 and quash the same.

For Petitioner : Mr. Adithya Reddy.

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

O R D E R

This Writ Petition has been filed challenging order dated 28.04.2017 in TIN.33583361259/2015-16, passed by the respondent and to quash the same.

2. Heard Mr. Adithya Reddy, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader who accepts notice for the respondent.

3. By consent of both sides, this Writ Petition is taken for final disposal at the time of admission itself.

4. The petitioner is before this Court for the second time in respect of the assessment made under the provisions of Tamil Nadu Value Added Tax Act, 2006 for the year 2015-2016. Earlier, the petitioner filed Writ Petition in W.P.No.38255 of 2016, challenging the Assessment order dated 14.09.2016. The said writ petition was allowed by an order dated 28.11.2016 with a direction to the respondent to re-do the assessment, after affording an opportunity of personal hearing. The respondent has complied with the said direction and passed an impugned order.

5. The learned counsel for the petitioner would contend that the reasons assigned by the Assessing officer are not tenable and he has been solely guided by the stand taken by the inspecting officer.

6. On a perusal of the impugned order, I find that all the reasons assigned by the respondent are not verbatim repetition of the stand taken by the inspecting officer and there are other findings rendered by the respondent, such as the dealer has not produced purchase and sale bills even after opportunity was granted. Thus, if the petitioner is aggrieved they should file an appeal as against the impugned order. Therefore the writ petition is held to be not maintainable.

7. Hence, the writ petition is dismissed as not maintainable, giving opportunity to the petitioner to file an appeal before Appellate Assistant Commissioner within a period of 15 days from the date of receipt of copy of this order. The Appellate Commissioner shall entertain the appeal without any reference to limitation. Till then the respondent shall not initiate any coercive action against the petitioner. No Costs. Consequently connected Miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

sli/arr

To

The Commercial Tax Officer,
Hosur South,
Hosur.

+1cc to Mr. Adithya Reddy., Advocate, S.R.No.49011
+1cc to the Government Pleader, S.R.No.49125

W.P.No.17755 of 2017
and
W.M.P.No.19268 of 2017

NM(CO)
CS/09/08/17