IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.7.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.18205 of 2017
and
W.M.P.No.19795 of 2017

National Power System
rep.by its Proprietrix N.Rajalakshmi ... Petitioner

Vs

The Commercial Tax Officer,
Adayar Assessment Circle, No.46,
Greenways Road, Chennai-28. ... Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in TIN 33880963933/2015-16 dated 08.6.2017, quash the same and further direct the respondent to redo the assessment in accordance with law.

For Petitioner : Mr.N.Murali

For Respondent : Mr.K.Venkatesh,
Government Advocate

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the impugned order of assessment dated 08.6.2017 for the year 2015-16 under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. It is an admitted case of the petitioner that though the petitioner received the pre-revision notice dated 15.2.2017, they failed to respond to the same and did not submit their objections and that therefore, the respondent confirmed the proposal in the said notice. No serious error can be attributed

to the respondent for the manner, in which, he had completed the assessment, since the petitioner did not file their objections. In the affidavit filed in support of this writ petition, the petitioner would submit that they have got an excellent case on merits and have referred to certain decisions of this Court with regard to the aspect of adopting the uniform percentage for manufacturing wastage.

4. Considering the fact that the petitioner did not file their objections, this Court is not inclined to adjudicate the correctness of the impugned order on merits. However, taking note of the fact that the petitioner is a small dealer, one more opportunity can be granted to the petitioner, however, subject to a condition.

5. In the light of the above, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. On such payment, the petitioner is entitled to treat the impugned order as a show cause notice and submit their objections within a period of 10 days thereafter. On receipt of the objections, the respondent is directed to afford an opportunity of personal hearing and redo the assessment in accordance with law. In the event the petitioner fails to comply with the condition imposed by this Court, the benefit of this order will not enure to the petitioner and it is open to the petitioner to avail other remedies that may be available to them under the provisions of the Statute. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

rs

To

The Commercial Tax Officer,
Adayar Assessment Circle,
No.46, Greenways Road, Chennai-28.

+1cc to Mr.N.Murali, Advocate, S.R.No.51655

W.P.No.18205 of 2017
&
W.M.P.No.19795 of 2017

MSM(CO)
CA(02/08/2017)