IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.19692 of 2017
and W.M.P.No.21244 of 2017

Tvl.Sri Gayathri Agencies,
represented by its Proprietrix,
Ms.M.K.Thamilarasi,
No.51/24, Narayana Nagar Third Cross,
Kitchipalayam, Salem-15. .. Petitioner

Vs

The Commercial Tax Officer,
Salem Town (West) Assessment Circle,
Salem. .. Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records on the file of the respondent in CST.781079/2011-12 dated 20.06.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.K.Venkatesh,
Government Advocate

ORDER

Heard Mr.R.Senniappan, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent.

2.With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

3.The petitioner has challenged the impugned assessment order on the ground that it is violative of the principles of natural justice. It is pointed out by the learned counsel for the petitioner that on receipt of the notice dated 23.03.2017, the petitioner initially sought for time for submitting objections and subsequently submitted their objections on 19.04.2017 and also enclosed a pay order for Rs.3,069/-. The said pay order was encashed and an acknowledgement was also given to the petitioner on 12.05.2017. Further, the amount of Rs.3,069/- paid by the petitioner has been given credit to, in the impugned assessment order, but the objections filed along with the pay order has not been considered.

4.Prima facie it is seen that the petitioner has enclosed the pay order and forwarded the same along with the objections. Therefore, if the pay order has been received by the office of the respondent, obviously the explanation also should have been received. However, considering the peculiar facts and circumstances of the case and the contention that the product is exempted, this Court is inclined to remit the matter for fresh consideration. Accordingly, the petitioner is directed to treat the impugned assessment order dated 20.06.2017 as show-cause notice and submit their objections to the same within a period of fifteen days from the date of receipt of a copy of this order. 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. Till orders are passed in terms of the above directions, no coercive action shall be initiated against the petitioner.

5.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KM

To

The Commercial Tax Officer,
Salem Town (West) Assessment Circle,
Salem.

+1cc to M/s.R.Senniappan, Advocate, S.R.No.55549/17

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and
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SR(CO)
CU(11/08/2017)