BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD)Nos.85 and 86 of 2017
and
W.M.P(MD)Nos.60 and 61 of 2017

Tvl.Golden Hardware Stores,
Represented by its Proprietrix
M.Jamal Nabisa, aged about 52 years,
W/o.Late Mohammed Kani,
No.43,Cheranmadevi Road,
Pettai,
Thirunelveli-627 004. ..... Petitioner in both WPs

vs.

1.The Commissioner of Commercial Taxes,
O/o The principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Deputy Commercial Tax Officer,
Thirunelveli Bazaar Assessment Circle,
Commercial Tax office
A.R.Line Road,
Palayamkottai,
Thirunelveli-627 002. .... Respondents in both WPs

Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd Respondent in TIN.33155641335/2013-14 and TIN.33155641335/2014-15 dated 15.07.2016 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

COMMON ORDER

The prayer in these writ petitions is for issuance of a Writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd Respondent in TIN.33155641335/2013-14 and TIN.33155641335/2014-15 dated 15.07.2016 and quash the same.

2.It is the case of the petitioner that based on the Web Report that the petitioner is omitted to disclose certain purchases, the Assessing authority issued notices, asking the petitioner to furnish the particulars and also to produce the relevant documents within fifteen days, failing which, orders would be issued. According to the petitioner, the return scrutiny notices are bereft of details and from the notices, the petitioner was unable to come to the conclusion as to whether the purchase omission made was with regard to a single transaction or multiple transactions. However, the respondent proceeded to pass the impugned orders.

3.The respondents would contend that for the notices issued, neither reply has been given by the petitioner nor the petitioner asked for an opportunity of personal hearing and at the eleventh hour, the petitioner has come forward with these writ petitions and that he has got a remedy by way of appeal to the appellate authority under Section 51 of the TNVAT Act.

4.Though notices have been issued, no particulars have been furnished to the petitioner and the impugned orders do not disclose the materials based on which the total purchase omission has been arrived at and amount of tax payable. It does not disclose whether the purchase omission is based on a single transaction or different transactions. Be that as it may, this Court is of the view that one more opportunity may be given to the petitioner on terms and that the petitioner has also filed undertaking affidavits dated 04.01.2017 agreeing to deposit 15% of the disputed taxes.

5.Placing on record the affidavits dated 04.01.2017 filed in both the writ petitions, the petitioner is directed to deposit 15% of the disputed tax in both the cases on or before 31.01.2017 and the petitioner is directed to appear before the authority concerned on 08.02.2017 and also make written submission. In the meantime, the documents based on which, the figures have been arrived at may be furnished by the department to the petitioner before 31.01.2016. After hearing the petitioner on 08.02.2017, the respondents are directed pass appropriate orders.

With the above direction, these Writ Petitions stand disposed of. No costs. Consequently, W.M.P(MD)Nos.60 and 61 of 2017 are closed.

Sd/

Assistant Registrar(C.O.)

/True Copy/

Sub Assistant Registrar.

To

1.The Commissioner of Commercial Taxes,
O/o The principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Deputy Commercial Tax Officer,
Thirunelveli Bazaar Assessment Circle,
Commercial Tax office
A.R.Line Road,
Palayamkottai,
Thirunelveli-627 002.

+1CC to the Special Government Pleader, SR.No. 1139
+2cc to Mr.B.Rooban, Advocate in SR Nos.992 & 993

W.P.(MD)Nos.85 and 86 of 2017
05.01.2017

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ANR/SS3/18.01.2017/3P/6C