IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 06.04.2018
CORAM
THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM
W.P.No.8096 of 2018 &
W.M.P. Nos.10068 of 2018

Tvl.Sunrise Agencies
Represented by its Managing Partner
No.73-A, S.V.Road, Siva Rice Mill Compound
Dharmapuri - 636 701 ...Petitioner
v.

The State Tax Officer
Dharmapuri - 636 701
...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the respondent herein in TIN No.33623284122/2014-15, dated 28.12.2017 served on 17.01.2018 and quash the same and consequently direct the respondent to give opportunity before passing orders.

For Petitioner : Mr.A.N.R.Jayaprathap

For Respondent : Mr.M.Hariharan
Addl. Govt. Pleader (T)

ORDER

Heard Mr.A.N.R.Jayaprathap, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader accepting notice for the respondents. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is challenging the order of assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment year 2014-15 on the ground that it is violation of principles of natural justice.

3. I do not agree with the submission made by the learned counsel for the petitioner as it appears that the petitioner has not even approached the Assessing Officer whose office is situated in the same area, instead, repeatedly writing letters and sending the same by registered post. After waiting for reasonable time, the respondent proceeded further and passed the impugned assessment order. Therefore, the case on hand is not one of violation of principles of natural justice. But, it is a

case where the petitioner did not properly avail the opportunity granted. In any event, the petitioner states that their suppliers are Hindustan Unilever Limited (HVL) and the are awaiting certain information from the said company. Assuming the stand taken by the petitioner is correct, then the remedy available to the petitioner is to approach the Assessing Officer with the information and not writing letters and sending the same by registered post. However, considering the claim of the petitioner, this court is inclined to grant one more opportunity to the petitioner, but, such opportunity shall be subject to a condition.

4. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within 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 two weeks therefrom. 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. 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 15% of the disputed tax within the time stipulated. No costs. Consequently,connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer
Dharmapuri - 636 701

+1cc to Mr.S.Sivanandam, Advocate Sr.No.25467
+1cc to Government Pleader Sr.No.26026

VBA(CO)
sm:18.4.2018

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