IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.4.2018

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WRIT PETITION NO.5139 OF 2018 & WMP.NOS.6308 & 6309 OF 2018

M/s.P.N.G.Fuel Station, rep.
by its Proprietor N.Ganesan ...Petitioner

Vs

1. The Commercial Tax Officer, New State Tax Officer, Palacode Assessment Circle, Palacode.

2. The Branch Manager, Indian Bank, Pulikarai, Palacode-636808. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the 1st respondent in TIN/CST.33533291398/2014-15/A3 dated 13.2.2018 being notice for recovery of money due-from U issued on the 2nd respondent bank and connected proceedings dated 09.9.2016, quash the same as being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent-1 : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the first respondent. In view of the nature of relief this Court proposes to grant, the writ petition itself is taken up for final disposal without ordering notice to the second respondent.

2. The petitioner, which is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has challenged the assessment order passed by the first respondent for the year 2014-15 and the bank attachment notice.

3. The plea raised by the petitioner is that though proper returns were filed in Form I and Form J, the first respondent wrongly stated that no returns were filed. It is further submitted that the petitioner has not received the revision notice or the revised assessment order. In this regard, the learned counsel has referred to the representation given by the petitioner dated 16.2.2018 to the first respondent.

4. On perusal of written instructions given by the first respondent, as placed before this Court by the learned Government Advocate, it is clear that the revision notice was served on the petitioner on 04.4.2016, that the petitioner did not give any objections and that the assessment order was passed on 09.9.2016 and served on 10.9.2016. Prima facie, this Court is of the view that the petitioner received the impugned assessment order, as there are seal and signature of the salesman in the impugned assessment order and the mobile number of the owner being 9442854430 has also been mentioned. Therefore, this Court is inclined to accept the stand taken by the learned Government Advocate. But, taking into consideration the facts and circumstances of the case, this Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer, however, subject to a condition.

5. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the tax demanded within a period of 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 fifteen days therefrom. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing 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 tax demanded within the time stipulated. On remittance of 15% of the tax demanded, the attachment of the petitioner's bank account shall be lifted forthwith. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

RS

T.S.SIVAGNANAM,J

To

1. The Commercial Tax Officer,
   New State Tax Officer,
   Palacode Assessment Circle, Palacode.

2. The Branch Manager, Indian Bank,
   Pulikarai, Palacode-635808.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.30065
+1cc to the Government Pleader, S.R.No.30441

WP.No.5139 of 2018 & WMP Nos.6308 and 6309 of 2018

AD(CO)
CS/18/05/18