In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.10420 of 2018 & WMP.No.12388 of 2018

P.V.K.Agencies, rep.by its
Proprietrix Tmt.Premadevi ...Petitioner

Vs

The Commercial Tax Officer,
Thirukazhukundram Assessment
Circle, No.42, Wahab Nagar,
Thirukazhukundram,
Kanchipuram District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TIN/33751608618/2015-16 dated 09.1.2018 and quash the same as arbitrary and illegal.

For Petitioner : Mr.S.Ramanan
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is an authorized dealer of the Bharat Petroleum Corporation Limited and is registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner is aggrieved by an order of assessment dated 09.1.2018 under the provisions of the State Enactment for the year 2015-16.

3. The respondent issued a revision notice dated 29.11.2017 pointing out two defects. In so far as one of the defects is concerned, the petitioner filed copies of the purchase bills issued by one M/s.Bharat Benz and on verification of the same, the proposal under that head was dropped. With regard to other defect, the petitioner is stated to have made an oral request to the Assessing Officer, on the date, when they appeared along

with the purchase bills issued by the said M/s.Bharath Benz, seeking time to produce bank statements. However, without giving a reasonable time to the petitioner to produce bank statements, which are, according to the petitioner, voluminous, the respondent completed the assessment.

4. On a perusal of the impugned assessment order, this Court finds that in so far as one of the defects is concerned, the proposal has been dropped. This will go to show that the petitioner had appeared before the Assessing Officer. Therefore, if there was an oral request seeking extension of time to produce the bank statements, the respondent could have granted some time. In any event, since the writ petition is disposed of at the admission stage, this Court does not propose to express any opinion on the same, but would state that the petitioner can be afforded one more opportunity to go before the Assessing Officer to produce the bank statements.

5. Accordingly, the writ petition is disposed of with a direction to the petitioner to submit their further objections along with bank statements within a period of 15 days from the date of receipt of a copy of this order and on such production, the respondent shall afford an opportunity of personal hearing, verify the bank statements and redo the assessment under that head on merits and in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To
The Commercial Tax Officer,
Thirukazhukundram Assessment Circle,
No.42, Wahab Nagar, Thirukazhukundram,
Kanchipuram District.

+1cc to Mr.S.Ramanan,Advocate, sr.no.30871

+1cc to the Government Pleader sr.no.31438

WP.No.10420 of 2018&
WMP.No.12388 of 2018

GMR(CO)

RRK(22/05/18)