In the High Court of Judicature at Madras

Dated : 08.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.33898 of 2017 & WMP.Nos.37598 & 37599 of 2017

M/s.Creative Trading Company,
rep.by its Proprietor S.Ashikali ...Petitioner

Vs

The Assistant Commissioner (ST),
Periya Agraharam Circle, Erode,
Erode 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 on the file of the respondent in his impugned proceedings made in TIN : 33033077206/2012-13 dated 30.10.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar
For Respondent : Ms.G.Dhana Madhri, GA

ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer 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, is stated to have surrendered the registration certificate on 01.4.2013 on account of a dispute arising in the partnership business.



3. It is stated that thereafter, the petitioner had not been carrying on business in the name of M/s.Creative Trading Company. The impugned assessment order relates to the assessment year 2012-13, which is prior to surrender of the registration certificate and prior to alleged closure of their business. Therefore, notices, which may be issued by the respondent, are to be responded. However, when the revision notice dated 20.8.2016 was sent to the dealer, it had returned with the endorsement 'no such addressee'.

4. It is submitted by the learned counsel for the petitioner that one of the partners is now identifiable, though not carrying on business in the same name and style.

5. Considering the fact that the assessment pertains to 2012-13, the investing partner should necessarily respond to the proceedings of the respondent. Since an ex parte decision has been taken on account of non service of revision notice, this Court is inclined to grant liberty to the investing partner to go before the Assessing Officer.

6. Accordingly, the writ petition is disposed of with a direction to the investing partner to treat the impugned proceedings as a show cause notice and submit the objections. After receipt of the objections from the investing partner, the respondent shall afford an opportunity of personal hearing and proceed to redo the assessment in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rs
To
The Assistant Commissioner (ST),
Periya Agraharam Circle, Erode,
Erode District.

+1 cc to Mrs.R.Hemalatha Advocate sr 1236
+1 cc to Special Govt Pleader Taxes sr 1685

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of 2017



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