In the High Court of Judicature at Madras

Dated : 22.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.1280 of 2018 & WMP.Nos.1597 & 1598 of 2018

M/s.Genuine Scientific Equipments,
rep.by its Proprietor A.Naveen Kumar ...Petitioner

Vs

The Deputy Commercial Tax Officer
(Addl.), Gudiyatham (East)
Assessment Circle, Gudiyatham,
Vellore 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 No.33794245832/ 2015-16 dated 28.4.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha
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 has filed this writ petition challenging an assessment order passed under the Tamil Nadu Value Added Tax Act, 2006 dated 28.4.2017 for the year 2015-16.

3. The petitioner challenges the impugned order on the ground that it is in violation of the principles of natural justice, as the petitioner was not furnished with the details obtained from the Departmental website and that no opportunity of personal hearing was granted to the petitioner.

4. This plea could have been accepted by this Court but for the reason that the petitioner did not respond to the revision notice dated 22.9.2016 nor filed their objections. The petitioner could have, very well, approached the Assessing Officer and sought for details. Rather, the respondent, before completing the assessment, should have afforded an opportunity of personal hearing as mandated under Section 22(2) of the said

Act. However, considering the fact that the petitioner did not cooperate with the assessment proceedings, this Court is of the view that if the petitioner requires an opportunity to go before the Assessing Officer, that should be subject to a condition.

5. 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 seven days 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, the connected WMPs are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Deputy Commercial Tax Officer (Addl.), Gudiyatham (East) Assessment Circle, Gudiyatham, Vellore District.

+ 1 cc to Mrs.R.Hemalatha Advocate,SR.4466
+ 1 cc to The Govt.Pleader, SR.5232

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PVS(CO)
NR 12/02/2018