IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2018

CORAM

THE HON'BLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.14364 of 2018 &
W.M.P. Nos.16973 of 2018

Sri Ganapathi Agencies
Represented by its Proprietor
G.Srinivasan
No.219-B-C, Main Road
Valappadi
Salem - 636 115 ...Petitioner

v.

The Assistant Commissioner (ST)
Salem Rural Assessment Circle
Salem ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the respondent in TIN : 33162702181/2012-13, dated 20.04.2018 and quash the same being without jurisdiction, authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Ms.G.Dhana Madhri
Govt. Advocate (T)

ORDER

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate accepting notice for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner has filed this writ petition challenging the assessment order for the assessment year 2012-13 on the ground that it is violation of principles of natural justice.

3. This argument made by the learned counsel for the petitioner does not merit acceptance in the light of the fact that the petitioner was served with three revision notices dated 19.05.2015, 09.05.2017 and 10.11.2017 and for none of the notices, the petitioner has responded and dit not avail the opportunity. Therefore, the petitioner cannot state that the impugned order is in violation of principles of natural justice.

4. The learned counsel for the petitioner pointed out that immediately after the turnover of the petitioner had crossed Rs.50,00,000/-, they had paid a sum of Rs.6,44,221/-, which has been realized from their Bank account in Karur Vysya Bank.

5. Though I am not satisfied that there is violation of principles of natural justice, since the petitioner did not avail the opportunity, considering the fact that some amount of money has been paid by the petitioner, the respondent is directed to verify the same and if the same has been paid by the petitioner due credit can be given to the said sum towards the disputed tax liability. Hence, this Court is of the view that an opportunity can be granted to the petitioner , however, subject to a condition.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay a sum of Rs.5,00,000/- (Rupees five lakhs only) within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned assessment order as a show cause notice and submit their objections within a period of fifteen 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. No costs. Consequently,connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

Rj

To

The Assistant Commissioner (ST)
Salem Rural Assessment Circle
Salem.

+ 1 cc to Mr.R.Senniappan, Advocate Sr.37391
+ 1 cc to the Goverment Pleader Sr.37998

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