IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2018

CORAM

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

W.P.NO.14489 OF 2018
&
W.M.P.NO. 17100 OF 2018

Tvl. J.M. Tyres,
Represented by its Proprietor,
K.Raja
No. 259/3, Kudi Street,
Kootapalli Colony Post,
Tiruchengode (Town),
Namakkal District. ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Tiruchengode (Town) Assessment Circle,
Tiruchengode.
...Respondents

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records on the files of the respondent in TIN: 33673185203/2015-16 dated 14.03.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr. R.Senniappan

For Respondents : Mr.G. Dhana Madhri
Government Advocate

ORDER

Heard Mr. R.Senniappan, learned counsel for the petitioner and Mr.G.Dhanamadhri, learned Government Advocate appearing for the respondents and perused the materials placed on record including the counter affidavit filed by the respondent.

2.The petitioner's case is that revision notice dated 29.11.2016 and the impugned Assessment Order were not communicated to the petitioner and therefore, the petitioner applied for certified copy and filed this writ petition challenging the same. It is also the case of the petitioner that they did not file their return for the relevant year on account of the fact that their turnover is less than Rs.10 lakhs even as per the impugned Assessment Order.

3. It is seen that the purchase details, which has been gathered from the other end dealers in Annexure II, is less than Rs.10 lakhs, namely Rs.7,74,803.76. However, the respondent with a view to bring the turnover above Rs.10,00,000-, has added freight charges, profit and equal time addition and has completed the assessment determining the turnover at Rs.18,59,930/- and levied tax at 14.5%. Firstly, the question would be whether the turnover can be brought above Rs.10,00,000/- by adding freight charges, gross profit and equal time addition.

4. Considering the facts and circumstances of the case, this Court is of the view that the petitioner should be afforded one opportunity to place their Books of Accounts to establish that the transaction done by them is below the threshold limit and they are not required to file returns under the provisions of the Act.

For the above reasons, the writ petition is disposed of by directing the petitioner to treat the assessment order as show-cause notice and submit their objections within 15 days from the date of receipt of a coy of this order and on receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment on merits and in accordance with law with an independent mind without any prejudices. Till the orders are passed, no coercive action shall be initiated against the petitioner. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer,
Tiruchengode (Town) Assessment Circle,
Tiruchengode.

+1cc to Mr. R.Senniappan, Advocate sr.no.52257
+1cc to Special Government Pleader(Taxes) sr.no.52044

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nr 05/09/2018