IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.16649 & 16650 of 2018
and
W.M.P.Nos.19857 to 19860 of 2018

Tvl.Firza Leather & Uppers,
Represented by K.M.Fazlullah,
Nariyambattu Post,
Vaniyambadi .. Petitioner in both W.Ps'

Versus

The Commercial Tax Officer (Main),
Gudiyatham (West) .. Respondent in both W.Ps'

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records of the respondent in order dated 15.12.2016 in TIN No.33204343108/2013-2014, and TIN No.33204343108/2014 -15 respectively and quash the same.

For Petitioner : Ms.D.Naveena
(in both W.Ps')
For Respondent : Ms.G.Dhana Madhri
(in both W.Ps') Government Advocate

COMMON ORDER

Heard M/s.D.Naveena, learned Counsel appearing for the petitioner and Ms.G.Dhanamadhri, learned Government Advocate, who accepts notice on behalf of the respondent.

2. The petitioner is aggrieved by the assessment orders dated 15.12.2016 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the assessment years 2013-2014 and 2014-2015. The petitioner would state that the pre-assessment notice dated 14.11.2016 and the assessment orders were not served on the petitioner and only the recovery notice was served on them and that is how they came to know that an assessment order has been passed. From the letter written by the respondent to the petitioner dated 05.06.2018, It is seen that the pre-assessment notice which was sent by registered post was returned undelivered. Similarly, the assessment order also returned undelivered.

3. Further, on enquiry, it was found that the petitioner was no longer carrying on business in the said place and had vacated at about 1 ½ years back. Thus, the respondent cannot be faulted for having completed the assessment on the best judgment basis.

4. However, considering the fact that the impugned assessment orders though passed in December 2016, till date, has remained a paper order and no recovery has been effected. Therefore, balancing the interest of the Revenue as well as that of the dealer, this Court is inclined to grant one more opportunity to the petitioner.

5. Accordingly, the writ petitions are disposed of by directing the petitioner to pay 15% of the disputed tax and if the same is paid within a period of 15 days from the date of receipt of copy of this order, the petitioner is entitled to treat the impugned order as a show cause notice and submit their objections within a period of 15 days thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

msrm/sra

To
The Commercial Tax Officer (Main),
Gudiyatham (West).

+1cc to Special Government Pleader sR.No.44163

MR(CO)
sm:19.7.2018

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