IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.29399 & 29400 of 2013

M.P.Nos.1 of 2013 (2 MPs)

Tvl. Surabi Enterprises
Rep. by its Proprietor
T.Shanthilal
6, Ekambareswarar Agraharam Street
Chennai - 600 003

.. Petitioner in both WPs

vs

The Assistant Commissioner (CT) (FAC)
Moore Market (South) Assessment Circle
191, N.S.C. Bose Road
Chennai - 600 001

.. Respondent in both WPs

W.P.Nos.29399/2013 Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in TIN No.33290361451/2012-13, dated 23.09.2013 and quash the same as illegal and arbitrary.

W.P.Nos.29400/2013 Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in his proceedings in CST/920589/2012-13, dated 23.09.2013 and quash the same as illegal and arbitrary.

For Petitioner : Mr.P.R.Kumar
For Respondents : Mr.M.Hariharan
Additional Government Pleader

COMMON ORDER

Heard Mr.P.R.Kumar, learned counsel appearing for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader, appearing for the respondent.

2. The petitioner has filed these writ petitions challenging the assessment orders under the provisions of Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956 for the assessment year 2012-13. The impugned assessments have been completed on the ground that the petitioner did not respond to the impugned notice dated 31.07.2013 as the notice was returned as "Door locked and no such Company".

3. The learned counsel for the petitioner vehemently contended that the stand taken by the respondent in the impugned order is wholly incorrect, since the petitioner is still carrying on business and on 16.08.2012, an inspection was conducted in the place of business of the petitioner and statement was recorded, which shows that the petitioner is still carrying on business. Furthermore, it is pointed out that the time for filing Form WW is available to the petitioner till 31.10.2013 and the petitioner had sent the Form WW to the respondent by RPAD on 23.10.2013.

4. Till date, the respondent neither filed counter affidavit nor given written instructions to the learned Additional Government Pleader.

5. Considering the fact that the matters are pending since 2013 and the interim order is also being in force, this court is inclined to dispose of the writ petitions without going into to the contraversy as to whether the petitioner is still carrying on business or not and whether the revision notice was properly served, etc.

6. Accordingly, the writ petitions are disposed of by directing the petitioner to treat the impugned assessment orders dated 23.09.2013 as show cause notices and submit their objections with in a period of fifteen days from the date of receipt of a copy of this order. On receipt of the objections, the respondent is directed to fix a date for personal hearing, within a period of two weeks therefrom and after affording an opportunity of personal hearing, redo the assessment in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//
Sub Assistant Registrar

Rj

To

The Assistant Commissioner (CT) (FAC)
Moore Market (South) Assessment Circle
191, N.S.C. Bose Road
Chennai - 600 001

+1cc to Mr.P.R.Kumar, Advocate, S.R.No.38507

+1cc to the Spl Government Pleader, S.R.No.39076

W.P.Nos.29399 & 29400 of 2013 &
M.P.Nos.1 of 2013 (2 MPs)

GSP(03/07/2018)