IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos.6687 & 6688 of 2018
and W.M.P.Nos.8313 to 8316 of 2018

M/s.Bala Agency,
rep by its Proprietrix S.Balasaraswathi
No.1310/3, 1095 Chennai Salai,
Lakshminarayanapuram,
Panruti 607 106, Cuddalore District.
.. Petitioner in both W.Ps

Vs.

The Deputy Commercial Tax Officer,
Panruti (Rural) Assessment Circle,
Panruti, Cuddalore District.
.. Respondent in both W.Ps

Petitions filed under Article 226 of the Constitution of India to issue Writs of Certiorari calling for the records of the respondent in the impugned proceedings in TIN/33484501840/2014-15 & 2015-16 dated 13.01.2017 and quash the same.

For Petitioner (in both W.Ps) : Mr.J.Prasanna Kumar

For Respondent (in both W.Ps) : Mrs.G.Dhanamadhri, Government Advocate (Tax)

C O M M O N O R D E R

By consent, the Writ Petitions are taken up for final disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petitions to issue writs of certiorari to call for the records of the respondent dated 13.01.2017 in respect of the assessment years 2014-15 & 2015-16 and to quash the same.

3.It is the case of the petitioner that it is a Dealer in PVC Pipers and Fittings at Panruti and a registered Dealer on the filed of the respondent. Since the petitioner's turnover is below Rs.10 lakhs, they have not filed their monthly return in Form-I for the assessment year 2014-15 as required in Rule 7(1)(a) of TNVAT Rules and Section 21 of the TNVAT Act. The respondent had issued a notice dated 23.12.2016 stating that on verification of the Departmental website, it was noticed purchase suppression amounting to Rs.36,75,831/-, which has not been accounted for. It was proposed to determine the total and taxable turnover to the best of the judgment under Section 22(4) of the Act. However, the petitioner has not filed their objections before the respondent. The impugned order was passed without giving an opportunity of personal hearing to the petitioner.

4.Mrs.G.Dhanamadhri, learned Government Advocate taking notice for the respondent submitted that this Court in W.P.No.1280 of 2018 dated 22.01.2018 has passed the following order:

> "...
> 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 re-do 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."

Further, the learned Government Advocate submitted that similar order can be passed in these Writ Petitions also, for which the learned counsel appearing for the petitioner has no objection.

5.In view of the submissions made by the learned counsel on either side, the Writ Petitions are allowed 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 orders as show cause notices and submit their objections within a period of two weeks from the date of compliance. On receipt of the objections, the respondent shall decide the matters afresh, after affording due opportunity of personal hearing to the petitioner. In case the petitioner fails to comply with the directions of this Court in these Writ Petitions, this order will not enure to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/--
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Commercial Tax Officer,
Panruti (Rural) Assessment Circle,
Panruti, Cuddalore District.

+2cc to Mr.J.Prasannakumar, Advocate Sr.No.22120
+1cc to Special Government Pleader Sr.no.23000

GJ(CO)
sm:5.4.2018

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