BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.6324 of 2018
and
W.M.P.(MD)Nos.6174 & 6175 of 2018

M/s.Syiyam Agency,
Represented by its Proprietorix
Mrs.C.Chandra ...Petitioner

Vs.

The Commercial Tax Officer (FAC),
Aruppukottai. ...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in his proceedings in TIN Nos.33055801537/2013-14 dated 14.09.2016, quash the same as it is unlawful and invalid.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mrs.S.Srimathy,
Special Government Pleader.

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ORDER

Mrs.S.Srimathy, learned Special Government Pleader, takes notice for the respondent.

2.By consent of both parties, the main Writ Petition is taken up for final disposal, at the stage of admission itself.

3.The petitioner is a dealer registered with the respondent. The case on hand pertains to the assessment year 2013-2014. By the impugned order dated 14.09.2016, the petitioner has been directed to pay the tax amount of Rs.93,580 towards tax and Rs.30,648/- towards penalty. The said orders are assailed in this Writ Petition.

4.The learned counsel appearing for the petitioner would submit that the petitioner was not aware of the passing of the said order. According to him it was not served in the manner stipulated in the statute. He would also point out that as per Section 3(1)(b) of the Tamil Nadu Value Added Tax Act, 2006, liability would accrue only if the petitioner's turnover was not less then Rs.10,00,000/-. In this case, according to the petitioner, the turnover is below the said limit. Therefore, he would point out that the order impugned in the Writ Petition is without jurisdiction. He, however, submitted that the substantial portion of the demand made in the impugned order has already been recovered.

5.Taking note of all these submissions, this Court is of the view that the respondent should revisit the issue. Therefore, the order impugned in the Writ Petition is quashed. The matter is remitted to the file of the respondent. The respondent shall issue notice to the petitioner to hold an enquiry and after affording an opportunity of personal hearing to the petitioner, pass appropriate orders in accordance with law after taking note of the objections to be lodged by the petitioner.

6.The Writ Petition is allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Commercial Tax Officer (FAC),
Aruppukottai.

+ 1 cc TO Mr.R.D.Ganesan , Advocate in SR No. 57369
+ 1 cc TO The Special Government Pleader in SR No. 58412

Tsg
AE/SV MMS/SAR1/08.06.2018/2P/4C

ORDER MADE IN
W.P.(MD).No.6324 of 2018
23.03.2018