BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

Writ Petition(MD)Nos.17186 to 17189 of 2018
and
W.M.P.(MD).Nos.15136 to 15143 of 2018

M/s. Sri Venkateswara Agencies,
represented by its Proprietor Sri Priya,
No.1042, Sulthaniappa Lane,
South Main Street,
Thanjavur,
residing at
8, Dhuvaraga Nagar,
M.C.Road, Thanjavur.
... Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Thanjavur II Assessment Circle,
Commercial Taxes Buildings,
Thanjavur. ... Respondent in all W.Ps.

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the respondent in TIN No.33483825265/2012-13, 2013-14, 2014-15, 2015-16 dated 20.03.2017 issued by the respondent and quash the same is wholly without jurisdiction, being contrary to the judgment of this Hon'ble Court reported in the case of the Assistant Commissioner (CT), Koyambedu Assessment Circle, Chennai vs. Infiniti Wholesale Limited reported in 2017 (99) VST 430 and direct the respondent to conduct an enquiry with other end dealers as contemplated under Section 27 of the TNVAT Act, 2006 and pass an assessment order afresh, in the light of the guidelines enunciated in the batch of writ petitions in the case of M/s. JKM Solutions Private Limited reported in 2017(99) VST 34 3 (Mad) including the opportunity of personal hearing to the petitioner.

For Petitioner in all W.Ps. : Mr.S.Karunakar
For Respondent in all W.Ps. : Mr.A.Muthukaruppan
Additional Govt. Pleader

C O M M O N   O R D E R

The petitioner is a registered Dealer in Furniture and Home Appliances and an assessee under TNVAT Act. For the assessment years 2012-13, 2013-14, 2014-15, 2015-16, she filed returns and which were deemed to have been assessed on 31.05.2017. Pursuant to the surprise inspection conducted by the Enforcement Wing Officials, on 25.05.2016 and 27.05.2016, certain defects were noticed. After receiving the report, the respondent has issued a revision notice to the petitioner on 23.12.2016. Even though the petitioner has received the same, she did not file any objection or appear for personal hearing. In such circumstances, the respondent has passed the final order on 20.03.2017. Challenging the said order, the petitioner is before this Court.

2. The learned Additional Government Pleader appearing for the respondent would vehemently contend that the petitioner has neither filed an objection nor availed the opportunity of personal hearing, approached this Court, without exhausting the appeal remedy. Therefore, the writ petition is liable to be dismissed.

3. The learned counsel for the petitioner would submit that it is a case of mismatch and refers to an independent enquiry and personal hearing. She could not file her objections and appear for personal hearing due to the latter development. It is stated that the petitioner has lost her husband, that is why, she could not take diligent actions on the pre – revision notice issued by the respondent.

4. Considering the submissions made by the learned counsel for the petitioner and on taking a lenient view, this Court is inclined to permit the petitioner to file an appeal as contended by the learned Additional Government Pleader. The petitioner shall deposit 10% of the tax due along with the statutory deposit of 25% before the appellate authority and submit her appeal within a period of 15 days from the date of receipt of a copy of this order. On such appeal is being filed by the petitioner along with the deposits indicated above, the appellate authority shall consider the same on merits and pass orders in accordance with law, within a period of one month thereafter.

5. These writ petitions are disposed of, with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Commercial Tax Officer,
Thanjavur II Assessment Circle,
Commercial Taxes Buildings,
Thanjavur.

+1cc to Mr.S.Karunakar, Advocate Sr.No.76773
+1cc to The Spl. Government pleader Sr.No.77294

AKV

VB/KAK/SAR1/31.08.2018/3P/4C

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