BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.08.2019
CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)No.5184 of 2014
and M.P(MD)No. 1 of 2014

Shivaji @ Co.,
Rep by its Proprietrix,
S.Lakshmi ... Petitioner

Vs.

The Commercial Tax Officer,
Tirunelveli Junction Assessment Circle,
Tirunelveli. ... Respondent

PRYAER: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records in the impugned order of the respondent in No.33275540874/07-08 dated 02.12.2013 and quash the same.

For Petitioner : Mr.H.Arumugam
For Respondent : Mr.S.Angappan
Government Advocate

O R D E R

The petitioner has challenged an order of assessment dated 02.12.2013 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act) for the period 2007-08.

2. Admittedly, the petitioner has not bothered to respond to notices dated 18.10.2013 and 18.11.2013 issued by the Assessing Officer prior to passing of the impugned order.

3. Learned counsel for the petitioner does not dispute the receipt of notices, but only states that the erstwhile Office Manager had not been in service at the relevant point of time and it was for this reason that the petitioner had not responded to the notices. This submission appears to be factually incorrect insofar as the Manager has been terminated, as per the affidavit filed in support of the writ petition, only on 6.12.2013 which is after passing of the impugned order. There is thus no justification for the petitioner not to have responded to the notices.

4. On merits, the petitioner does not dispute the position that the balance tax of a sum of Rs.1,18,912/- as per the impugned order is liable to be paid. The only submission is that credit in excess

of the aforesaid account is available and if such credit had been granted there would have been no necessity for a demand at all.

5. In the light of the fact that the petitioner has not responded to the pre-assessment notices, I am not inclined to interfere with the impugned order. It is always open to the petitioner to file an application for rectification within the time line provided under Section 84 of the Act and seek his remedy therein.

6. With these observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Commercial Tax Officer,
Tirunelveli Junction Assessment Circle,
Tirunelveli.

+1 CC to Mr.H.ARUMUGAM, Advocate (SR-82367[F] dated 20/08/2019)
+1 CC to SPL GP (SR-82864[F] dated 21/08/2019)

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