BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.07.2019

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THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P(MD)Nos.10206 and 10207 of 2017
and W.M.P.(MD)Nos. 7831 and 7832 of 2017

In Both Writ Petitons:

M/s.Sri Vinayaka Pharma
Represented by its
Proprietor
Sivalingam ... Petitioner

Vs.

The Deputy Commercial Tax Officer,
Manapparai Assessement Circle,
Commercial Tax Building,
Manapparai, Trichy. ... Respondent

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus calling for the records in TIN 33243743238/2014-2015, 2015-2016 dated 14.10.2016 issued by the respondent and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass a assessment order afresh after furnishing the records as relied by them in their notice dated 12.08.2016 to the petitioner including the opportunity of being heard as mandated under Section 22(4) of the TNVAT Act, 2006 within such time as may be directed by this Court.

For Petitioner : Mr.Karunakar
For Respondent : Mr.S.Angappan
Government Advocate

C O M M O N O R D E R

The petitioner assails orders of assessment dated 14.10.2016 in respect of the periods 2014-2015 and 2015-2016, on two grounds. Firstly, learned counsel for the petitioner states that no adequate opportunity was extended prior to completion of assessment. On merits, the Officer alleges a mismatch of particulars supplied by the petitioner when compared with the materials available with the Department.

2. As far as the question of opportunity is concerned, the petitioner has admittedly received notice dated 12.08.2016, wherein at paragraph No.4, the authority states as follows:

> *4.Objections, if any against the proposed revision of assessment may be filed in writing along with relevant records before the undersigned in the office of the Commercial Tax Officer, Manapparai Assessment Circle at Manapparai within 15 days from the date of receipt of this notice. You will also be given a chance for Personal Hearing to represent your case or through your authorized representative, if you desire so and the date and time for Personal Hearing will be intimated on receipt of requisition. If you fail to avail the opportunity revision orders will be passed as proposed without any further notice.*

3. Having received the aforesaid notice, the petitioner has admittedly not bothered to respond to the same. It is in these circumstances that the impugned orders of assessment have come to be passed. I do not see any reason for the Court to extend any leniency to the petitioner, since there is no compliance with the pre-assessment notice.

4. On merits, it is seen that apart from the issue of mismatch there are other issues that arise. This Court is thus not inclined to interfere with the impugned orders of assessment.

5. Learned counsel for the respondent however expresses no objection to the suggestion of the court that the petitioner may be permitted to file appeals before the statutory authority within a period of two weeks from today.

6. In the light of the aforesaid, the petitioner is permitted to file appeals, challenging the impugned orders, if so advised, within a period of two weeks from today. If such appeals are filed within the time as stipulated aforesaid and in accordance with law, the same will be received and entertained by the Registry of the first appellate authority without reference to limitation. I also

record, at this juncture, the submission of the learned counsel for the petitioner who states that 100% of the tax has been remitted by the petitioner.

7. Granting liberty as above, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To,
The Deputy Commercial Tax Officer,
Manapparai Assessement Circle,
Commercial Tax Building,
Manapparai, Trichy.

+1 cc Mr. S.KARUNAKAR, ,Advocate, SR.No. 75866
+1cc to M/s.Special Government Pleader,SR.No. 75725

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16.07.2019

CM
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