BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Tuesday, the Thirtieth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice ABDUL QUDDHOSE

WP(MD) No.11228 of 2019
and
WMP(MD)No.8570 of 2019

TVL. PRIME INDUSTRY
REPRESENTED BY ITS PARTNER
P.SRINIVASAN ... PETITIONER

Vs

1.THE COMMISSIONER OF COMMERCIAL TAXES,
O/O THE PRINCIPAL AND SPECIAL
COMMISSIONER OF COMMERCIAL TAXES, EZHILAGAM,
CHEPAUK, CHENNAI - 600 005.

2.THE COMMERCIAL TAX OFFICER,
KARUR(EAST) ASSESSMENT CIRCLE,
COMMERCIAL TAX BUILDING, NORTH PRADAKSHNAM ROAD,
KARUR-639 001. ... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Certiorari for calling for records pertaining to the impugned proceedings of the 2nd Respondent in TIN.33913764743/2016-17 dated 18.03.2019 and quash the same.

Prayer in WMP(MD). 8570/ 2019 :
To grant an interim stay for the operation of the impugned proceedings of the 2nd Respondent in TIN.33913764743/2016-17 dated 18.03.2019 till the disposal of the writ petition.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.B.ROOBAN, Advocate for the petitioner and of Mr.M.JEYAKUMAR, Additional Government Pleader on behalf of the Respondents, the court made the following order:-

Mr.M.Jeyakumar, learned Additional Government Pleader accepts notice for the respondents.

2. The instant writ petition has been filed challenging the assessment order dated 18.03.2019 passed by the second respondent in TIN:33913764743/2016-17.

3. According to the learned counsel for the petitioner, the respondents have not followed the circular issued by the Principal Secretary, Commissioner of Commercial Taxes, Ezhilagam, Chennai- 600 005, dated 17.08.2015, before passing the impugned assessment order.

4. The learned counsel for the petitioner further referred to paragraph no.5 of the aforesaid circular and submitted that the officer who issues the notice and the officer who confirms the said notice shall not be a different person. In other words, the pre-assessment notice issued by the predecessor shall not be confirmed by the succeeding officer without issuing a fresh notice.

5. The learned counsel for the petitioner, then referred to the pre-revision notice issued in the instant case and the assessment order. Referring to the same, he pointed out that the pre-revision notice was issued by a different officer and the assessment order was passed by a different officer. Further, the learned counsel for the petitioner would submit that the respondents under the impugned assessment order have not considered the objections raised by the petitioner in his reply to the pre-revision notice sent by the respondents.

6. Considering all the aforesaid factors, this Court is of the considered view that *prima facie* case has been made out for the grant of stay. Accordingly, an **order of Interim Stay is granted until further orders.** For filing counter and disposal, post on **24.06.2019.**

sd/-
30/04/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO
1.THE COMMISSIONER OF COMMERCIAL TAXES,
O/O THE PRINCIPAL AND SPECIAL
COMMISSIONER OF COMMERCIAL TAXES, EZHILAGAM,
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2.THE COMMERCIAL TAX OFFICER,
KARUR(EAST) ASSESSMENT CIRCLE,
COMMERCIAL TAX BUILDING, NORTH PRADAKSHNAM ROAD, KARUR-639 001.

ORDER IN
WP(MD) No.11228 of 2019
and
WMP(MD)No.8570 of 2019
Date :30/04/2019

TK/MMS/SAR-3/09.05.2019/2P/3C