IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.10130 OF 2022
AND
W.M.P.NOS.9821 & 9827 OF 2022

Tvl.Venu Visuals
Represented by its Proprietor,
Mr.V.Nagarajan
No.F3, 459/65, Priyanka Complex,
Old MTH Road, Varadharajapuram,
Ambattur,
Chennai – 600 053.

... Petitioner

Vs

The Assistant Commissioner (ST)
Ambattur Assessment Circle,
Station Room No.332, 3rd Floor,
Integrated Commercial Tax Offices,
Chennai – 600 035.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the Respondent in TIN:3374137073 and quash the impugned order dated 23.02.2022 passed u/s. 27 of the Act in TIN:3374137073/2016-17 for the F.Y. 2016-17 as arbitrary, illegal and against the principles of natural justice and consequently direct the Respondent to pass a fresh order after granting the petitioner, sufficient opportunity of being heard in accordance with law.

For Petitioner	:	M/s.Vandana Vyas
For Respondent	:	Mr.R.Siddharth Government Advocate

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records of the Respondent in TIN:3374137073 and quash the impugned order dated 23.02.2022 passed u/s. 27 of the Act in TIN:3374137073/2016-17 for the F.Y. 2016-17 as arbitrary, illegal and against the principles of natural justice and consequently direct the Respondent to pass a fresh order after granting the petitioner, sufficient opportunity of being heard in accordance with law.

2. The petitioner was a dealer under the erstwhile Tamil Nadu Value Added Tax Act, 2006 [in short, 'TNVAT Act'] for the Assessment Year 2016-17. With regard to Form-WW submitted by the petitioner/dealer, a notice was issued to the petitioner on 27.01.2022 under Section 27 of the TNVAT Act.

3. In order to give reply to such notice, the petitioner i.e., the Proprietor of the petitioner since was indisposed, on 07.02.2022, an adjournment petition was filed, seeking adjournment till 22.02.2022.

4. Though such an adjournment was sought for, since there has been no specific communication from the Revenue to extend the time up to 22.02.2022 and in the meanwhile, the petitioner could not recover from illness, he could not submit the response even on or before 22.02.2022. However, on the next day i.e., 23.02.2022, the impugned order of assessment has been passed. Challenging the same, the present writ petition has been filed.

5. Ms.Vandana Vyas, learned counsel for the petitioner would contend that, only due to health reasons, the petitioner could not submit the reply with documents i.e., documents for the exempt purchases and also for the exempt sales and therefore, if one more opportunity is given to the petitioner, the petitioner is ready and willing to produce all the necessary documents with regard to the seeking of exempt purchases and exempt sales for Financial Year 2016-17.

6. Heard Mr.R.Siddharth, learned Government Advocate appearing for the respondent, who would submit that, though the time was asked for up to 22.02.2022, the Assistant Commissioner concerned of the Revenue had granted time only upto 15.02.2022 and even thereafter, since there is no reply from the petitioner dealer, the Revenue proceeded to pass orders on 23.02.2022.

7. I have considered the said submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

8. Now, only on health reasons, the petitioner wants one more opportunity, enabling the petitioner to file the necessary documents in support of the exempt sales or exempt purchase. If those documents, the petitioner is able to produce, certainly,

that will be a worthy defence on the part of the petitioner to meet the Show Cause Notice given by the Revenue.

9. Moreover, one more chance is now sought for by the petitioner, only because of health reasons and earlier chance given to the petitioner could not be utilized. Hence, this Court, considering the factual matrix of the case as stated above, is inclined to dispose of this writ petition with the following orders:

(i) That the impugned order is set aside and the matter is remitted back to the respondent, where treating the notice dated 27.01.2022 as Show Cause Notice, the petitioner shall give reply along with necessary documents whatever available with the petitioner in support of the case of the petitioner within a period of two weeks from the date of receipt of a copy of this order.

(ii) It is made clear that no fresh Show Cause Notice need to be given by the Revenue. If reply is not given within the two weeks time stipulated herein above, it is open to the Revenue to proceed with the completion of the assessment and they can even confirm the earlier order passed, which is impugned herein.

10. With these observations and directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST)
Ambattur Assessment Circle,
Station Room No.332, 3rd Floor,
Integrated Commercial Tax Offices,
Chennai - 600 035.

+1cc to Mr.R.Sivaraman, Advocate, S.R.No.28191
+1cc to the Special Government Pleader(Taxes), S.R.No.27812

W.P.No.10130 of 2022

MG(CO)
RLP(13/06/2022)