BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2022

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P(MD).No.12360 of 2020
and
W.M.P(MD)No.10575 of 2020

Tvl.Sri Andal Traders,
Represented by its Proprietor,
S.Soundararajan. ... 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 Assistant Commissioner (CT),
Thirunelveli Junction Assessment Circle,
Commercial Taxes Building,
Reserve Line Road,
Palayamkottai,
Thirunelveli District- 627 002. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorari, calling for records pertaining to the impugned proceedings of the 2nd respondent in TIN.No:33085542191/15-16/Def.No.42/31.03.2015 dated 18.03.2020 and quash the same.

For Petitioner : Mr.Raja Karthikeyan
For Respondents : Mr.M.Prakash
Special Government Pleader

ORDER

The petitioner has challenged the impugned assessment order, dated 18.03.2020 of the second respondent on the ground that the notice proceeding to the impugned order has not been served on the petitioner.

2. It is the specific case of the petitioner that the petitioner's house/premises was locked and the petitioner has shifted to Chennai. It is therefore submitted that the impugned

order passed by the respondent is liable to be quashed.

3. The learned counsel for the petitioner has drawn attention to Rule 19 (1) of the Tamil Nadu Value Added Rules, 2006.

4. Opposing the prayer, the learned counsel for the respondents submits that the notice, dated 07.08.2019 and 09.11.2019, proposing the tax liability along with opportunity of personal hearing were sent to the place of business of the petitioner and were returned back by the department of Postal Authority endorsement “not known”. It is further submitted that the notice, dated 05.11.2019, was sent to the residential address of the petitioner and the same was received by a person, namely, Selvi.R.Anusiah, however, no reply has been filed by the petitioner. It is further submitted another notice, dated 10.01.2020, with the opportunity of personal hearing was given to the petitioner. It is therefore submitted that the petitioner has been given reasonable opportunity and that there is no merits in the present writ petition.

5. I have considered the arguments advanced by the learend counsel for the petitioner and the learned counsel for the respondents.

6. The petitioner has not responded to notice, dated 07.08.2018 and 09.11.2019. In any event, a further notice was sent on 05.11.2019, which was received by one Selvi.R.Anusiah. Merely, because the said Selvi.R.Anusiah may not be a member of the family would not mean that the notice was not received by the petitioner. It is quite possible that said R.Anusuya may have be a domestic help or a person, who was residing along with the petitioner in the said address.

7. Considering the fact that the impugned order has been passed on 18.03.2020, liberty is given to the petitioner to file statutory appeal before the Appellate authority within a period of 30 days from the date of receipt of copy of this order. If such appeal is filed by the petitioner within such time, the Appellate Authority shall consider the petitioner’s appeal and dispose the appeal on merits and in accordance with law. The writ petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sn

To

1. The Commissioner of Commercial Taxes,
   O/o The Principal and Special Commissioner of
   Commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai- 600 005.

2. The Assistant Commissioner (CT),
   Thirunelveli Junction Assessment Circle,
   Commercial Taxes Building,
   Reserve Line Road,
   Palayamkottai,
   Thirunelveli District- 627 002.

+1 CC to M/s.SPL GP (SR-9172[F] dated 01/03/2022)

+1 CC to M/s.B.ROOBAN, Advocate (SR-9115[F] dated 01/03/2022)

W.P(MD).No.12360 of 2020
28.02.2022

nsn(CO)
TR(16.03.2022) 3P 5C