IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.04.2015
CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.13565 of 2015
And
M.P.No.1 of 2015

Tvl.Balaji Enterprises ...Petitioner

Vs.

The Commercial Tax Officer (FAC),
Cuddalore (Town),
Commercial Taxes Buildings,
Sub Jail Road,
Cuddalore. ...Respondent

Prayer:

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of certiorarified mandamus calling for records in respect of the impugned revised assessment order TIN/33854383442/ 2013-14/03.12.2014 of the respondent under Tamil Nadu Value Added Tax Act, 2006 for the year 2013-14 quash the same and further direct the respondent to give reasonable opportunity to the petitioner to file objections and thereafter to pass fresh order in accordance with law.

For Petitioner : Mr.S.Sivakumar
For Respondent : Mr.V.Haribabu
Additional Government Pleader (T)

ORDER

By consent of both the parties, the writ petition is disposed of, at the stage of admission itself.

2.This writ petition has been filed challenging the impugned order passed by the Commercial Tax Officer (FAC), Cuddalore Town in TIN No.33854383442/2013-14 dated 03.12.2014 calling upon the petitioner to pay a sum of Rs.1,59,833/- on the ground that the impugned order has been passed when the petitioner, owing to domestic reasons which went beyond his control, was unable to file his objections. Even though he has filed monthly returns to the then Assessing Authority and obtained acknowledgement in the monthly returns copy, the Assessing Officer has wrongly passed the order without following the principles of natural justice and further, he would submit that the returns submitted by the petitioner was not properly verified even though they were available in the office of the respondent before issuing notice.

3.Admitting his mistake that owing to a situation which went beyond his control, he was unable to file the objections, the petitioner sought for one more opportunity to approach the respondent to file a detailed objection to re-consider his case on the basis of the returns already filed before the then assessing Authority. He has also come forward to pay 50% of the demanded amount.

4.Heard the learned counsel appearing for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader (T) who takes notice for the respondent.

5.This Court considering the fact that the petitioner had already filed his return to the then Assessing Authority and obtained acknowledgement in the monthly returns copy is of the view that the respondent could have considered the same and consequently taking note of his statement showing his bonafide that he is prepared to pay 50% of the demanded amount, this Court is hereby inclined to remand the matter back to the respondent for fresh consideration subject to the payment of 50% of the demanded amount within a period of two weeks from the date of receipt of a copy of this order. On payment of 50% of the amount by the petitioner, within a period of two weeks from the date of receipt of a copy of this order, the Assessing Authority shall consider the matter afresh along with his objections if any, which will also be filed within a period of two weeks from the date of receipt of a copy of this order and pass appropriate orders without being influenced by the impugned order. In view of the above, the impugned order dated 03.12.2014 is set aside.

6.This writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer (FAC),
Cuddalore (Town),
Commercial Taxes Buildings,
Sub Jail Road,
Cuddalore.

1 cc to Mr. S.Sivakumar,Advocate, SR.No.24610

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pmk.21.5.2015