

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.06.2015

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.18147 of 2015 and
M.P.Nos1 and 2 of 2015

MCC Digital Innovations Private Limited,
B.2/73C, Safdarjung Enclave,
New Delhi-110 029,
rep. by its authorised Signatory
R.K.Sharma ...Petitioner

Versus

The Assistant Commissioner (CT),
Ayanavaram Assessment Circle,
7th Floor, Dowlath Towers,
Taylors Road, Kilpauk,
Chennai-600 010. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his proceedings in TIN 33831003100/2010-2011 dated 13.3.2015 and quash the same and forbear the respondent from taking any coercive action to recover the sum of Rs.27,91,302/- in pursuance of the above order.

For Petitioner : Mr.M.Kamalanathan

For Respondent : Mr.V.Haribabu,
Additional Government Pleader (T)

O R D E R

The Writ Petition has been filed, challenging the impugned order dated 13.03.2015 passed by the Assistant Commissioner (CT), Ayanavaram Assessment Circle, Chennai-10 in his proceedings in TIN 33831003100/2010-2011 in and by which the Assessing Officer has held that when a notice calling for objection to the proposal was issued to the petitioner to the registered place of business, namely, No.B.23/24, City Centre, No.232, Purasawalkkam High Road, Chennai-10, the same was returned with a postal endorsement 'LEFT' and however the above notice was sent by registered post to Thiru Ajay Metha, Director, No.A20, Anand Niketan, New Delhi-21 and it was served at the above address. However, the petitioner did not come forward to file any objection nor requested any time to file objection so far. On this basis, he passed the impugned order. Since the proposal is not objected by the petitioner, the Assessing Officer confirmed the same in respect of tax and also levy of penalty.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The learned Counsel for the petitioner would submit that when the respondent issued notice to the registered place of

business, namely, No.B.23/24, City Centre, No.232, Purasawalkkam High Road, Chennai-10, admittedly the same was returned with a postal endorsement ''LEFT'' for the reason that the petitioner has closed down the Registered Office in the month of May, 2011. While so, the respondent ought not to have sent by registered post another notice to his residence.

3. The learned Counsel for the petitioner would further submit that the respondent has not chosen to issue notice to the official address of the petitioner's company. There may not be any levy of penalty because there is no proper notice served on the Registered Office of the petitioner. The learned Counsel would also submit that in the absence of any valuable notice served on the Registered Office, it has to be construed that the petitioner has not given any opportunity to represent his case.

4. Heard Mr.V.Hari Babu, learned Additional Government Pleader (T) appearing for the respondent.

5. At the outset, I find no force in the arguments of the learned Counsel for the petitioner. It is to be noted that initially, the respondent has sent the notice dated 09.01.2015 to the petitioner's registered place of business, namely, No.B.23/24, City Centre, No.232, Purasawalkkam High Road, Chennai-10. Admittedly, the same was returned with a specific postal endorsement ''LEFT'' since the said office was closed during the month of May, 2011. Thereafter, the respondent has chosen to send the above notice by registered post to Thiru Ajay Metha, Director, No.A20, Anand Niketan, New Delhi-21 and the same also appears to have been served on the above address. Therefore, the defence raised by the learned Counsel for the petitioner that there was no notice served on the registered office of the petitioner and served only at his residential address cannot be construed to be a value service of notice is rejected. When the respondent with all responsibility has served a notice at the residential address of the Director of the petitioner's company, it is the duty cast upon the petitioner to respond to the said notice by filing a detailed reply. But the petitioner has failed to file any objections. Hence, the impugned order came to be passed. That apart, the impugned order under challenge is appealable before the Appellate Deputy Commissioner (CT), Chennai Central, Chennai within 30 days from the date of receipt of a copy of the said order. Therefore, when the petitioner has got better effective statutory remedy, it is for him to work out the same before the Appellate Authority.

6. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/-
Assistant Registrar

True Copy

To

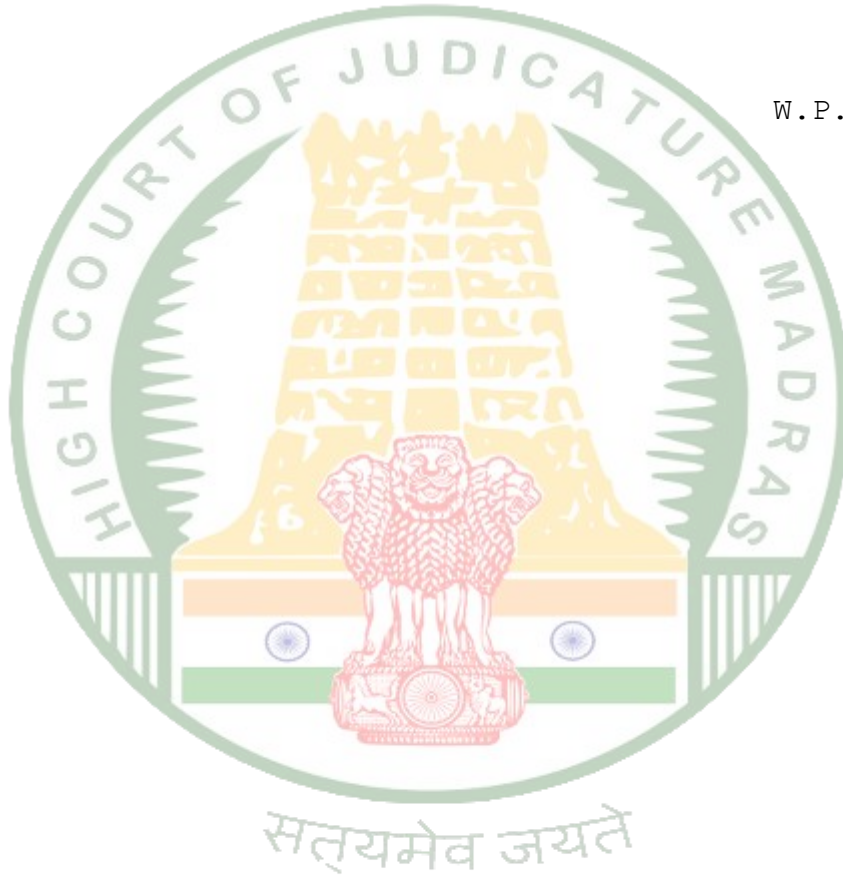
The Assistant Commissioner (CT),
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Taylors Road, Kilpauk,
Chennai-600 010.

+1 cc to Mr.M.Kamalanathan, Advocate,SR.30907

+1 cc to Spl.Government Pleader,SR.30985.

Rv(co)
krd 15/7

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