IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.4435 of 2015
And
M.P.No.1 of 2015

A.Adhirajan .. Petitioner

Vs

The Assistant Commissioner(CT),
Villupuram -1.
... Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records pertaining to the impugned proceedings of the respondent in TIN 335442682809/2012-2013, dated 17.10.2014 and to quash the same.

For Petitioner : Mr.P.Rajkumar
For Respondent : Mr.A.N.R.Jayapratap, AGP (T)

O R D E R

The petitioner has come forward with this writ petition challenging the order of the respondent dated 17.10.2014.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Taxes) for the respondent.

3. The learned counsel for the petitioner submitted that though the petitioner has submitted his monthly returns for every month, the respondent had irrationally stated in the impugned order that the petitioner has not filed the monthly returns and levied the tax and penalty on the petitioner.

4. Learned counsel for the petitioner also submits that after receipt of the impugned order, the petitioner has also filed an application dated 24.10.2014 alongwith relevant docuemnts to show that the petitioner had filed the monthly returns for the month of May 2012, the respondent has not passed any orders on the application but has initiated action to attach the bank account of the petitioner.

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5. The learned counsel for the petitioner further submitted that the petitioner has also agreed to pay 5% of the amount as determined in the impugned order and if three weeks' time is given, they would co.operate to enable the assessing officer to complete the proceedings afresh.

6. The Tamil Nadu Value Added Tax, 2006 (hereinafter referred to as 2006 Act) enables the petitioner to prefer an appeal within 30 days from the date of receipt of the order of the Assessing Officer. The impugned order is dated 17.10.2014. Even though the learned counsel for the respondent has stated that the writ petition has been filed after the period of limitation prescribed under 2006 Act, the appellate authority is empowered to condone the delay of 30 days after the expiry of the original 30 days and it is for the appellate authority to decide on merits to condone the delay beyond the original period of 30 days and thereafter hear the appeal.

7. Taking note of the facts and circumstances of the case, which being an exceptional one, I direct the respondent to accept 5% of the amount as determined in the impugned order, which the petitioner has agreed to pay the same, which can be adjusted from the refund and and give one more opportunity to the petitioner to put forth their objections and thereafter to pass appropriate orders on merits and in accordance with law.

8. The petitioner is directed to appear on 20.03.2015 before the authority, on which date, he is entitled to make his verbal and written submissions, if any. In case the petitioner fails to avail this opportunity on 20.03.2015, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records. In case such an order is passed, after providing an opportunity to the petitioner, the petitioner undertakes that they will approach the appellate authority, challenging that order on the ground that no opportunity was given. The said submission of the learned counsel for the petitioner is recorded.

This writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

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-s/d-
Assistant Registrar(CO)
Dt:18/3/2015

True Copy

Sub-Assistant Registrar

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To

1. The Assistant Commissioner(CT),
   Villupuram -1.

+ 1 cc to the Spl. Govt. Pleader SR 9768

+ 1 cc o Mr.P.Rajkumar, Advocate SR 9568

kk(co)
prk20/3

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