IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No. 9714 of 2015
and
M.P.No.1 of 2015

1) B.S.Sathish Raju
2) B.S.Sumanth Raj
3) B.S.Saran Raj ... Petitioners

Vs

1.The Commissioner,
Gudiyatham Municipality,
Vellore District.

2. The Revenue Inspector,
Gudiyatham Municipality,
Vellore District.

3. The Revenue Assistant,
Gudiyatham Municipality,
Vellore District. ... Respondents

Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the impugned order in Na.Ka.No.1515/15/A1, dated 09.03.2015 issued by the first respondent and quash the same.

For Petitioners : Mr.D.Rajagopal

For Respondent-1 : Mr.S.Gunasekaran, GA

For Respondents 2 & 3 : Mr.M.E.Rameshwaran, AGP

O R D E R

The petitioner has come forward with this writ petition to call for the records pertaining to the impugned order in Na.Ka.No.1515/15/A1, dated 09.03.2015 issued by the first respondent and quash the same.

2. Heard both sides.

3. In an earlier occasion when the petitioners' father approached this Court in W.P.Nos.9537 & 9538 of 2006 wherein, a relief has been granted to the petitioners' father on 25.04.2013. The relevant paragraph of the aforesaid order is extracted below:

> ".... 10. On the aforesaid circumstances, considering the fact that the petitioner has deposited 50% of the enhancement tax, as directed by this Court, I find it just and reasonable to set aside the impugned order and to remit back the matter to the respondents for fresh disposal, according to law, after providing reasonable opportunity to the petitioner.
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> 11. In the result, both these writ petitions are allowed and the impugned distraint warrants and sale notices, dated 29.03.2006 issued by the first respondent are set aside and the matter is remitted back to the respondents. The respondents are directed to dispose the matter, afresh after providing reasonable opportunity to the petitioner, within three months from the date of receipt of a copy of this order, according to law, uninfluenced by the findings of this Court if any. Consequently, connected W.P.M.P.Nos. 10560 and 10561 of 2006 are closed."

4. In the meanwhile, the petitioner in earlier writ petitions who is the father of the petitioners herein, Mr.Sridhar, passed away and the same has been intimated to the respondents. It is the contention of the petitioners herein that though the death of their father has been duly intimated to the respondents, without giving an opportunity, the respondents have passed the impugned order and that apart, the amount already deposited as directed by this Court has not been taken into account by the authority concerned.

5. Learned counsel for the respondents would submit that 50% of the enhanced tax amount as directed by this Court in the earlier writ petitions has been paid by the petitioners' father.

6. It is not disputed by the learned counsel for the respondents that the amount already deposited has not been taken into account while passing the impugned order. Hence, I am inclined to set aside the impugned order. Accordingly, the impugned order is set aside and the matter is remitted back to the respondents for passing fresh orders. The respondent is directed to give an opportunity of personal hearing to the petitioner as provided under Section 22(4) of the TNVAT Act and decide the matter afresh on merits and in accordance with law.

7. The learned counsel for the petitioners also agreed that the petitioners would appear before the respondent for personal hearing. After hearing the petitioners, the respondents are directed to decide the matter on merits and in accordance with law. The said exercise shall be completed on or before 15.05.2015. In case the petitioners fails to avail this opportunity of personal hearing, the authority is empowered to pass orders afresh on merits and in accordance with law based on the available records.

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

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Commissioner, Gudiyatham Municipality,
Vellore District.

2. The Revenue Inspector,
Gudiyatham Municipality, Vellore District.

3. The Revenue Assistant,
Gudiyatham Municipality, Vellore District.

1 cc to M/s.D. Rajagopal, Advocate, Sr. 18587

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ALA (CO)
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