BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P(MD)No.3710 of 2015
and
M.P.(MD).No.1 of 2015

M/s. Rathna Hot Bakes
represented by its Proprietor
A.Malliga. ...Petitioner

Vs.

The Deputy Commercial Tax Officer-II,
Virudhunagar. ...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in TIN No.33755741109/2013-14 dated 02.01.2015 and quash the same as illegal, arbitrary and direct the respondent to pass assessment order afresh by considering the revised returns filed in Form L and assess the petitioner at a compounded rate of tax under Section 8 of Tamil Nadu Value Added Tax Act.

For Petitioner : Mr.S.Karunakar
For Respondent : Mr.A.Muthukaruppan
Addl. Government Pleader

O R D E R

The Writ Petition is filed only on the ground that due to his illness, for the notice issued, he could not appear or give his explanation. Thereafter, he has filed a revised return and along with the revised return also, he has paid the difference in that amount. Therefore, if he is given an opportunity, he will now able to assure that the tax will not be leviable. In fact, to show his bona fide, he is prepared to pay 15% of the tax amount, so that he will be getting an opportunity to appear before the authority concerned.

2. The learned Additional Government Pleader fairly submitted that if the payment is made in time, they will consider the same after giving one more opportunity, as he did not appear before the authority concerned.

3. In view of the circumstances of the case that the petitioner could not give his explanation due to his illness and on payment of 15% of the tax demanded in the order, the authority will give him one more opportunity as the order has been passed without personal hearing, the impugned order in TIN No.33755741109/2013-14 dated 02.01.2015 passed by the respondent is set aside on condition that the petitioner shall pay 15% of the tax demanded and on payment of such amount, the authority will give one more opportunity both for explanation or for personal hearing and thereafter, pass appropriate orders considering the revised return. The payment of 15% has to be made on or before 31.03.2015. Failure to pay the amount in time, automatically will disentitle the petitioner to get the benefit under this order.

4. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To
The Deputy Commercial Tax Officer-II,
Virudhunagar.

+1CC to M/s.S.Karunakar, Advocate in SR.13019
+1CC to the Special Government Pleader in SR.13219

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