In the High Court of Judicature at Madras

Dated : 03.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.16019 and 18798 of 2016
and WMP.Nos.13841 and 16415 of 2016

M/s.Sri Saraswathi Timber Mart,
rep.by its Authorized Signatory
Mr.Manoj R.Patel ...Petitioner in both WPs

Vs

1.The Deputy Commercial Tax Officer,
Enforcement/Roving Squad, Cuddalore.

2.The Commercial Tax Officer (Enforcement)
Roving Squad, Office of the Assistant
Commissioner (CT), Enforcement,
Cuddalore.

3.The Joint Commissioner (Enforcement),
Vellore. ... Respondents 1 to 3 in both WPs

4.The Joint Commissioner (CT), Vellore
Division, Vellore.

5.The Assistant Commissioner (CT),
Station Road, Chrompet, Chennai-44. ...Respondents 4 & 5 in WP.No. 18798 of 2016

PETITIONS under Article 226 of The Constitution of India praying for the issuance of (i) a Writ of Mandamus directing the first and second respondents to consider all the documents available with the petitioner including Form KK Form JJ, Bill of Lading and others in connection with the transactions mentioned in the revised notice made in G.D.No.577/2015-16 dated 30.10.2015 and the impugned order dated 30.3.2016 made in G.D.No.577/2015-16 issued by the second respondent after affording an opportunity to the petitioner for passing a reasonable order on merits within a reasonable time (WP.No.16019 of 2016) and (ii) a Writ of Certiorarified Mandamus to call for the entire records in connection with the impugned G.D.No.577/2015-16 dated 30.3.2016 issued by the second respondent, quash the same and consequently direct the respondents to take into consideration the revision petition dated 11.5.2016 filed under Section 54 of Tamil Nadu Value Added Tax Act 2006 along with the documents produced by the petitioner and the documents already available in the file of the respondent after affording an opportunity of personal hearing to the petitioner and pass a reasoned order on merits in accordance with law within a reasonable time (WP.No.18798 of 2016).

For Petitioner in both WPs : Mr.K.V.Subramanian, SC
Mr.K.V.Subramanian Associates

For all the respondents : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondents. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner in both the writ petitions are one and the same. WP.No.16019 of 2016 has been filed seeking a direction to respondents 1 and 2 to consider all documents available with the petitioner in connection with the transactions mentioned in the notice dated 30.10.2015 and the order dated 30.3.2016 after affording an opportunity to the petitioner and pass an order. The order dated 30.3.2016 is challenged by the petitioner by a separate writ petition in W.P.No.18798 of 2016.

3. When the cases were heard, it was pointed out that the petitioner can file a revision, if they are so aggrieved by the order passed by the second respondent and the Joint Commissioner would the appropriate authority to consider the factual aspects.

4. The learned Senior Counsel appearing for the petitioner submits that the petitioner has already filed a revision petition before the Joint Commissioner (CT), Vellore Divisiion - the fourth respondent in W.P.No. 18798 of 2016 and the same has been taken on file by the fourth respondent. It is further submitted that the petitioner would be satisfied if the fourth respondent is directed to consider the revision petition on merits and in accordance with law after affording an opportunity to the petitioner and till then, the other respondents may be directed not to initiate any coercive proceedings pursuant to the impugned order dated 30.3.2016.

5. Considering the fact that the petitioner has already filed a revision petition before the fourth respondent namely the Joint Commissioner (CT), Vellore Division, the writ petitions are disposed of with a direction to the Joint Commissioner (CT), Vellore Division to consider the petitioner's revision petition dated 11.5.2016 on merits and in accordance with law, afford an opportunity of personal hearing, verify the records and pass a speaking order within a period of six weeks from the date of receipt of a copy of this order. Till then, the respondents shall not initiate any coercive action for recovery of tax and penalty, which are now demanded and the same shall abide by the orders to be passed by the Revisional Authority. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commercial Tax Officer,
Enforcement/Roving Squad,
Cuddalore.

2.The Commercial Tax Officer (Enforcement) Roving Squad,
Office of the
Assistant Commissioner (CT),
Enforcement,
Cuddalore.

3.The Joint Commissioner (Enforcement),
Vellore.

4.The Joint Commissioner (CT),
Vellore Division,
Vellore.

5.The Assistant Commissioner (CT),
Station Road,
Chrompet, Chennai-44.

+1cc to M/S.K.V.Subramanian Associate Sr.29726
+1cc to the Special Pleader sr.29937, 29934

WP.Nos.16019 & 18798 of 2016&
WMP.Nos.13841 & 16415 of 2016

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srg 17/06/2016