IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.1797 to 1800 of 2016
and WMP.Nos.1583 to 1586 of 2016

M/s.Karthik Enterprises
Represented by its Proprietor
S.Mohanasundaram
23, Kannan Nagar,
1st Street, Ganapathy,
Coimbatore – 641 006. ..Petitioner in all WPs

Vs

1.The Appellate Deputy Commissioner (CT) Main
Dr.Balasundaram Road,
Coimbatore.

2.The Commercial Tax Officer
Ganapathy Circle,
Coimbatore – 18. .. Respondents in all WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus forbearing the respondents herein from proceeding with the Appeal Nos. AP 4/2013, AP 62/2013, AP 61/2013 and AP 63/2013 pending on the file of the 1st respondent till furnishing of documents to the petitioner as required by him in his letter dated 15.12.2015

For Petitioner : Mr.J.Pothiraj
For Respondents : Mr.S.Kanmani Annamalai
Special Government Pleader

ORDER

Heard Mr.J.Pothiraj, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Special Government Pleader appearing for the respondents and with their consent, these Writ Petitions are taken up for final disposal.

2. The petitioner is a registered dealer under the erstwhile provisions of the Tamil Nadu General Sales Tax Act, 1959 and presently under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The relief sought for by the petitioner in this Writ Petition is for issuance of Writ of Mandamus to forbear the Appellate Deputy Commissioner (Commercial Tax) Main, Coimbatore, not to proceed further with the hearing of the Appeal Petitions in Appeal Nos. AP 4/2013, AP 62/2013, AP 61/2013 and AP 63/2013 till the documents sought for by the petitioner vide their letter dated 15.12.2015 are furnished.

3. The petitioner has preferred statutory appeals as against the orders of the assessment passed by the Commercial Tax Officer, Ganapathy Circle, Coimbatore dated 12.08.2013. The Appellate Authority, by final hearing notice dated 27.11.2015, granted a final opportunity to the petitioner to appear on 15.12.2015 at 11.00 a.m., failing which, orders would be passed on the materials available with the Appellate Authority in the absence of the petitioner. On receipt of this notice, the petitioner has given a letter to the Appellate Authority on 15.12.2015, which has been received by the Manager of the office of the Appellate Authority on the same date, wherein the petitioner has requested that the case be adjourned and copies of the documents be furnished to them. It is submitted by the learned counsel for the petitioner that on such representation being made, the Appellate Authority is yet to decide the matter.

4. From the representation dated 15.12.2015, submitted to the Appellate Authority, it is seen that the petitioner is seeking for copies of the purchase and sales bills seized by the Enforcement Officers, copies of all the relevant documents etc., However, the petitioner has not given specific list of documents, but appears to have requested for the copies of all the documents which were seized by the Enforcement Officers.

5. In my view, to pass such orders to direct the Appellate Authority, who is said to be in possession on the files of the Assessing Officer, would be a cumbersome process. However, to ensure that principles of natural justice are followed, the Appellate Authority should permit the petitioner to peruse the records, which are said to be seized by the Enforcement Officers of the Commercial Tax Department and are now in possession of the Appellate Authority.

6. In the light of the above, there will be a direction to the petitioner to appear before the Appellate Authority along with the copy of this order and request for perusal of the records which have been seized by the Enforcement

Officers. On such request being made, the Appellate Authority shall direct the petitioner or their authorised representative to peruse the records in the presence of the officers from the office of the Appellate Authority and if the petitioner requires any particulars, the copies of few documents which are not either bulky or cumbersome to make copies, the officers of the Appellate Authority shall furnish those copies alone and the cost of making copies shall be borne by the petitioner and shall be deposited in the office of the Appellate Authority immediately on demand.

7. The above direction shall be complied with within a period of two weeks from the date the petitioner approaches the Appellate Authority. Thereafter, the Appellate Authority shall afford an opportunity of personal hearing to the petitioner and hear their contentions and pass final orders on merits and in accordance with law within a period of eight weeks from the date of which the personal hearing is concluded.

8. With the above direction, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

sd/-
Assistant Registrar(Cs-VII)

/TRUE COPY/

Sub-Assistant Registrar

ds/dn

To:
1.The Appellate Deputy Commissioner (CT) Main
Dr.Balasundaram Road,
Coimbatore.

2.The Commercial Tax Officer
Ganapathy Circle,
Coimbatore - 18.
+1 CC to MR.J.Pothiraj Advocate. SR.NO.3626
+1 CC to Special Govt.Pleader. SR.NO.3191

W.P.No.1797 to 1800 of 2016

CO-CTK
JD 01/02/2016