

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.27698 to 27702 of 2015 &
M.P.Nos.1 to 1 of 2015 &
M.P.Nos.2 to 2 of 2015

M/s.Sree Saradhambal Automobiles Erode (P) Ltd.,
Rep. by its Managing Director - Ashokan Muthusamy,
Iyer Hospital Premises, Iyer Hospital Road,
Singanallur,
Coimbatore.

.. Petitioner in all
Writ Petitions

Versus

The Assistant Commissioner (CT),
Singanallur Circle,
Coimbatore-18.

.. Respondent in all
Writ Petitions

Prayer in all Writ Petitions: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings in TIN No.33111823146/2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, dated 29.07.2015, respectively, and quash the same as illegal and contrary to law.

For Petitioner in
all Writ Petitions : M/s.R.Hemalatha

For Respondent in
all Writ Petitions : Mr.V.Haribabu
Additional Government Pleader

COMMON ORDER

The petitioner has filed these Writ Petitions for issuance of a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings in TIN No.33111823146/2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, dated 29.07.2015, respectively, and quash the same as illegal and contrary to law.

2. This is the second time the petitioner is before this Court on the same issues. In all these petitions, the petitioner was issued demand notices, demanding interest for belated realization on the tax due for the assessment years 2007-2008, 2008-2009, 2009-2010, 2010-2011 and 2011-2012 respectively.

3. According to the respondent in all the cases there has been delay of 7 to 10 days in realization of tax due and therefore interest has been charged. The interest charged vary from about Rs.2,500/- to about Rs.5,000/-. Earlier, the petitioner came before this Court stating that without affording an opportunity of personal hearing, orders have been passed. Therefore, this Court in W.P.No.25337 of 2012 etc., batch, without setting aside the notices, remanded the matter for fresh consideration, with a direction to the respondent to afford an opportunity of personal hearing. On such remand, the impugned orders have been passed.

4. Now the issue raised by the petitioner is that cheques were given by the petitioner along with the Return and for no fault committed by them, the Department did not send the cheques to the Bankers for clearance within the appropriate time and since there was delayed submission of the cheques by the Department to their Bankers for clearance, the petitioner cannot be made liable for payment of interest. However, it is not known as to why such a contention was not raised by the petitioner at the time of personal hearing however in the impugned order, the respondent has not stated as to the date on which, the cheques were received by them and cheques were presented by them with their Bankers, but they have furnished only the date of realization.

5. In terms of Rule 23(1)(d) of the TN VAT Rules, the dealer can remit the payment by cheque. Therefore, if the Rule provides for remittance by cheque, it has to be seen as to whether there was any delay on the part of the Department in presenting the cheque for clearance.

6. Therefore, to examine as to whether there was any delay on the part of the Department in submitting the cheques for clearance to their Bankers, this Court deems it appropriate that the matter should be remanded back to the Authority for fresh consideration.

7. Accordingly without setting aside the impugned proceedings, the matters are remanded to the respondent, to afford an opportunity of personal hearing and show the relevant documents to the petitioner / dealer, showing the dates on which the cheques were presented by the Department to their Bankers for encashment and after receiving objections, if any, pass a speaking order on merits and in accordance with law and communicate the same to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Singanallur Circle,
Coimbatore-18.

+1cc to Special Government Pleader Sr.34778

सत्यमेव जयते

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