IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01/6/2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.3730 of 2015
and
MP.Nos.1 to 3 of 2015

K.Duraikannu (Defunct) ...Petitioner

Vs.

The Commercial Tax Officer
Jayakondam Circle, Jayakondam. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN.33663622242/2009-2010 dated 29/5/2013 and quash the same.

For Petitioner ... Ms.R.Hemalatha

For Respondents...Mr.Manokaran Sundaram,
Addl.Govt.Pleader

O R D E R

The petitioner is aggrieved by an order of assessment dated 29.5.2013. The petitioner is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 and was issued a notice for revision of assessment for the assessment year 2009-10. In the said notice, it was stated that certain purchases were not accounted for by the petitioner and the corresponding sales turnover were not disclosed and the tax due thereon was also not paid. Though the petitioner received such a notice, he failed to submit a reply resulting in the impugned order of assessment redetermining the total and taxable turnover and assessing the tax to be paid at Rs.1,79,705/-, apart from levying penalty under Section 27(b) of the said Act.

2. The petitioner did not take any steps to challenge the impugned order of assessment immediately, resulting in an order of attachment being passed by the respondent. The immovable properties of the petitioner were sought to be brought for

auction by an auction notification dated 1.12.2014. It is at that time the petitioner woke up and approached this Court.

3. The learned counsel for the petitioner submitted that the petitioner could not submit his objections within time, since he has closed down the business and he is a small scale dealer and prays that an opportunity may be granted to the petitioner to put forth the facts before the Assessing Officer, so as to take into consideration the petitioner's case.

4. I have heard the learned Additional Government Pleader on the above submission.

5. Considering the peculiar facts and circumstances of the case, this Court is inclined to grant some indulgence to the petitioner, however, subject to certain conditions.

6. In the light of the above, the writ petition is disposed of with a direction to the petitioner to pay a sum of Rs.1,00,000/- (Rupees one lakh only) towards part of the tax liability before the respondent within a period of six weeks from the date of receipt of a copy of this order. On payment of the said amount, the petitioner is permitted to treat the order of assessment as a show cause notice and submit his explanation within a period of two weeks thereafter. On such explanation being submitted, the respondent shall afford an opportunity of personal hearing to the petitioner and pass a reasoned order on merits and in accordance with law. Till final orders are passed, the order of attachment shall continue to remain in force. If the petitioner defaults in payment of the amount as stipulated above, the benefit of this order will not enure to the petitioner and the writ petition will stand automatically dismissed. No costs. Consequently, the connected MPs are closed.
RS

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer, Jayakondam Circle, Jayakondam.

+ 1 cc to The Spl.Govt.Pleader (Taxes), High Court, Mds-104.
Sr 29010

KR/8/6/16

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