IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.7.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.39826 of 2015 and MP.No.1 of 2015

M/s.Magnetic Marketing
(P) Ltd., rep.by its Director ...Petitioner

Vs

The Assistant Commissioner (CT)
(FAC), Tiruvallur Assessment
Circle, Tiruvallur, Kancheepuram District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in his proceedings in RC.1725/A3/2014 dated 6.11.2015 and quash the order passed therein as illegal and without jurisdiction as per the various decisions of this Court.

For Petitioner : Mr.C.Baktha Siromani
For Respondent : Mr.S.Manohar Sundaram, Additional Government Pleader

ORDER

Heard Mr.C.Baktha Siromani, learned counsel for the petitioner and Mr.S.Manohar Sundaram, learned Additional Government Pleader appearing for the respondent. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the proceedings of the respondent dated 6.11.2015. By the impugned proceedings, the respondent demanded penal interest for the belated payments of arrears of tax.

3. Though the learned counsel for the petitioner endeavoured to convince this Court that because this Court, in the earlier writ petition in W.P. No.8154 of 2012 filed by the petitioner, by order dated 29.3.2012, granted five instalments to pay the arrears of tax, penal interest cannot be levied, the fact remains that the tax became due because of the default committed

by the petitioner in respect of an agreement granting sales tax deferral for the period from 1998-99 to 2002-03. The question would be as to whether the interest could be payable and whether the tax due and liable to be paid by the petitioner would fall due with retrospective effect on account of the cancellation of the sales tax deferral agreement.

4. While considering this issue, this Court made some prima facie observations and in the light of the same, after some arguments, the learned counsel for the petitioner submitted that the petitioner may be permitted to move the Revisional Authority to challenge the impugned proceedings.

5. In view of the above, the writ petition is disposed of granting liberty to the petitioner to file a revision before the Revisional Authority challenging the impugned proceedings and the petitioner is at liberty to raise all issues, both factual and legal, which shall be decided by the Revisional Authority uninfluenced by any observations made in this order. If the revision is filed within a period of 30 days from the date of receipt of a copy of this order, the Revisional Authority shall entertain the revision without reference to the question of limitation and proceed to consider the same after affording an opportunity of personal hearing. No costs. Consequently, the above MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To
The Assistant Commissioner (CT) (FAC),
Tiruvallur Assessment Circle, Tiruvallur,
Kancheepuram District.

+1 cc to Mr.C.Bakthasironmani Advocate sr.38577
+1 cc to Special Government Pleader sr.38399

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and MP.No.1 of 2015

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