

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23719 of 2016
and
W.M.P.No.20326 of 2016

G.K.Suresh Babu

... Petitioner

vs.

1.The Deputy Commissioner of Central Excise,
Office of the Deputy Commissioner of Central Excise,
Hosur II Division, Hosur - 635 126.

2.The Superintendent of Service Tax,
(Service Tax Cell), Hosur II Division,
Hosur - 635 126.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari, calling for the records of the first respondent in connection with rejection order passed by the first respondent dated 20.06.2016 and quash the same.

For Petitioner: Mrs.G.Pachiammal

For Respondents: Mr.A.P.Srinivas
Senior Panel Counsel

सत्यमेव जयते
O R D E R

Heard Mrs.G.Pachiammal, learned counsel appearing for the petitioner and Mr.A.P.Srinivas, learned Senior Panel Counsel appearing for the respondents and with their consent, the Writ Petition is taken up for final disposal.

2.By an order in Original No.16/2006 dated 28.02.2007, the petitioner was imposed a penalty of Rs.1,51,686/- together with an interest of Rs.27,360/- being the amount payable for not remittance of the service tax. Unfortunately, the petitioner did not challenge the order in original, but approached this Court by filing a writ petition in W.P.No.14319 of 2016 when a demand was made to the petitioner to pay the penalty amount with

interest. The said writ petition was dismissed by order dated 15.04.2016. As against which, the petitioner filed a writ appeal in W.A.No.544 of 2016. The Hon'ble Division Bench dismissed the writ appeal and further ordered that it will be open to the petitioner to make a request for payment of amount by installment and as and when such request is made, the respondents shall take into account any hardship suffered by the petitioner and take a decision in accordance with law. The petitioner thereafter remitted the interest amount of Rs.27,360/- as evidenced by receipt dated 20.05.2016. After remitting the interest amount, the petitioner submitted a representation on 20.06.2016 to the first respondent requesting for waiver of the penalty amount. The first respondent has rejected the representation stating that there is no provision for waiver of the penalty amount which has already been confirmed. The stand taken by the first respondent is perfectly in order. The petitioner having been unsuccessful in earlier round of litigation again now cannot re-open the concluded proceedings and once again challenge the demand notice issued to him.

3.The learned counsel appearing for the petitioner submitted that with great difficulty the petitioner had remitted the interest amount and he is a small time civil contractor and as of now, he does not have much business and he is finding it difficult to manage his day-to-day activities.

4.Considering such submission, this Court is inclined to permit the petitioner to pay the penalty amount of Rs.1,51,686/- in installments. Accordingly, while dismissing the writ petition liberty is granted to the petitioner to pay the penalty amount of Rs.1,51,686/- in five equal installments and first of such installment shall be paid on or before 25.07.2016. Similarly the subsequent installments should be paid on or before 25th of every succeeding months. If the petitioner commits default in payment of any one of the installments, it is open to the respondents to initiate recovery proceedings. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

cse

To

1.The Deputy Commissioner of Central Excise,
Office of the Deputy Commissioner of Central Excise,
Hosur II Division, Hosur - 635 126.

2.The Superintendent of Service Tax,
(Service Tax Cell), Hosur II Division,
Hosur - 635 126.

1 cc to Mr.M.D.Thirunavukkarasu, Advocate, sr.38595

gj ii co
kra 28.07.2016

W.P.No.23719 of 2016 &
W.M.P.No.20326 of 2016



WEB COPY