IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.7.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.23897 to 23903 of 2016
and
WMP.Nos.20488 to 20494 of 2016

ISIS Exports Private Limited,
rep.by its Director P.V.Pratap ... Petitioner in all the WPs

Vs

The Assistant Commissioner (CT),
Purasaiwakkam Assessment Circle,
Chennai-10. ... Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in TIN No.33080481119/ 2008-09 dated 23.9.2015; TIN No.33080481119/ 2009-10 dated 23.9.2015; TIN No.33080481119/2010-11 dated 29.9.2015; TIN No.33080481119/2011 -12 dated 25.9.2015; TIN No.33080481119/2012-13 dated 29.9.2015; TIN No.33080481119/2013-14 dated 29.9.2015; and TIN No.33080481119/2014 -15 dated 29.9.2015 respectively and quash the same and further direct the respondent to redo the assessments on the above in accordance with law.

For Petitioner in all WPs : Mr.N.Murali

For Respondent in all WPs : Mr.S.Kanmani Annamalai, Additional Government Pleader(T)



COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader takes notice for the respondent. Heard both. By consent, the writ petitions are taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the Tamil Nadu Value Added Tax Act,

2006, is engaged in the manufacture as well as export of finished leather shoe upper, etc. In all these writ petitions, the petitioner challenges the assessment orders containing various dates for the years 2008-09 to 2014-15.

3. Admittedly, the petitioner did not submit their objections to the pre-revision notices dated 6.8.2015. The reason stated is that the petitioner had temporarily stopped business activities, as one of the directors of the petitioner company one Ms.P.V.Priyadharshini, who was suffering from cancer, ultimately died on 7.8.2015 after prolonged hospitalization. Apart from that, another director one Mr.C.Srinivasan died on 14.10.2015, as a result of which, the entire business activities came to a standstill.

4. However, when the officials of the Enforcement Wing visited the business premises, they pointed out certain errors, which were based upon the web report alleging that the petitioner effected purchases from RC cancelled dealers and proposed to reverse the input tax credit availed. That apart, by relying upon the web report, the officials of the Enforcement Wing alleged mismatch of Annexures I and II and purchase suppression. However, because of the precarious condition, in which, the petitioner was pushed to, the petitioner had to hand over cheques to the officials of the Enforcement Wing and they have been encashed thereby fully settling the entire tax liability.

5. However, the petitioner would state that these cheques were handed over to the officials of the Enforcement Wing only with a view to purchase peace and not to precipitate the matters further.

6. But, it does not mean that the petitioner is estopped from challenging the correctness of the impugned assessment orders by resorting to the remedies available under the provisions of the said Act.

7. The learned Additional Government Pleader submits that the assessments were completed in September 2015, that the time stipulated to avail the appeal remedy is already over and that the Appellate Authority has no power to condone the delay beyond the period of 60 days. That apart, it is further submitted that the writ petitions have been filed only in July 2016 and that there is a gross delay and laches on the part of the petitioner.

8. From the facts placed, the petitioner, though a private limited company, appears to have been a closely held company and there had been some mishaps in the family, since two of the

directors had passed away. The petitioner's business itself had come to a standstill and they stopped all activities. Therefore, this Court is of the view that the petitioner should be granted indulgence to file appeals before the Appellate Authority and more so, when the entire tax liability has already been recovered.

9. For all the above reasons, the writ petitions are disposed of by giving liberty to the petitioner to file appeals before the Appellate Deputy Commissioner (CT) (Central), Greams Road, Chennai-6, within 30 days from the date of receipt of a copy of this order and if such appeals are filed, the Appellate Authority shall entertain the appeals without reference to the question of limitation, but subject to compliance of other conditions. It is made clear that whatever the amounts recovered from the petitioner towards tax liability by way of cheques taken by the officials of the Enforcement Wing, shall be taken as the amounts paid by the petitioner without prejudice to their rights and contentions in the appeals and the petitioner is entitled to canvass all the points.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT),
Purasaiwakkam Assessment Circle,
Chennai-10.

+7cc's to Mr.N.Murali, Advocate, S.R.No.38836
+1cc to the Special Government Pleader(T), S.R.No.38946

W.P.Nos.23897 to 23903 of 2016
&
WMP.Nos.20488 to 20494 of 2016

TM(CO)
CA(26/07/2016)