IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2016

CORAM:

THE HON 'BLE MR. JUSTICE T.S.SIVAGNANAM

Writ Petition No.28849 of 2016

and W.M.P.Nos.24919 and 24920 of 2016

M/s Madha Traders,
Rep.by its Proprietor,
81-C/2, Sankara Naidu Street,
Thirupapulliyur, Cuddalore. ..Petitioner

/vs/

Commercial Tax Officer,
Cuddalore Town Assessment Circle,
Cuddalore Town. ..Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorarified Mandamus, to call for the records of the respondent and to quash the assessment proceedings in TIN No.33794384251/2014-15 dated 11.01.2016 and 30.05.2016 as illegal and to direct the respondent to verify the CST returns and accounts and pass orders under CST Act after providing an opportunity of personal hearing to the petitioner and pass appropriate orders using the purchase details available with the respondent for the year 2014-15.

For Petitioner :Mr.C.Baktha Siromoni

For Respondent :Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.C.Baktha Siromoni, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, appearing for the respondent. By consent of both sides, this writ petition is taken up for disposal.

2. The order challenged, in this writ petition, is an assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006, for the year 2014-2015. The petitioner would state that they effected inter-state sales and collected tax at 2% and remitted to the department. However, due to ill-health of the petitioner Mr.K.G.Johnson, who is taking treatment at KIMS Hospital, Trivandrum, the petitioner had come to close down his business. It appears that notices were sent to the registered office and they have been returned as "Door Locked". The petitioner's case is that they have collected tax at the rate of 2% and remitted the same in to the Government's account.

3. The respondent has given written instructions to the learned Additional Government Pleader appearing for the respondent, in which, a clear stand has been taken that the petitioner has not remitted 2% tax collected by them and there is no proof to that effect.

4. The petitioner is not able to controvert the statement given by the respondent in the written instructions. Furthermore, the petitioner does not dispute the fact that he had closed down his business. Therefore, the respondent cannot be found fault with, for having finalized the assessment.

5. Faced with this situation, the learned counsel appearing for the petitioner pleads that the proprietor of the petitioner is suffering from serious medical illness and he is under treatment and on account of medical complication in the urinary bladder, the petitioner has to use an exterior collection bag and requested that one more opportunity may be granted and the petitioner would be willing to pay a reasonable amount for the disputed tax.

6. Considering the over all facts and circumstances of the case, there will be a direction to the petitioner to pay a sum of Rs.50,000/- (Rupees fifty thousand only) towards the disputed tax liability, within a period of three weeks from the date of receipt of a copy of this order. If this remedy is made, the

petitioner is entitled to treat the impugned order as the show cause notice and give their reply and on receipt of the reply, the respondent shall afford an opportunity of the personal hearing to the petitioner or his authorized representative and re-do the assessment in accordance with law. If any documents or particulars are required by the petitioner, the same shall also be furnished to the petitioner.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

Commercial Tax Officer,
Cuddalore Town Assessment Circle,
Cuddalore Town.

+1cc to the Special Government Pleader SR.58144

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srg 17/11/2016