In the High Court of Judicature at Madras

Dated : 03.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.34843 to 34845 of 2016
& WMP.Nos.29995 to 30000 of 2016

M/s.Sasi Dharshan Enterprises (defunct), rep.by its Authorized Signatory R.Sivakumar ...Petitioner in all the WPs

Vs

The Commercial Tax Officer,
Vadapalani Assessment Circle,
Chennai-6. ...Respondent in all the WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in its impugned proceedings respectively made in TIN 33121465453/2011-12, TIN 33121465453/2012-13 and TIN 33121465453/ 2013-14 dated 31.12.2015 and quash the same.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is a dealer in mobile accessories, registered on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. In these writ petitions, the petitioner has challenged the orders of assessment for the assessment years from 2011-12 to 2013-14.

3. Admittedly, the petitioner closed down their business and they also vacated the premises. Therefore, the respondent was fully justified in passing the impugned orders.

4. The learned counsel for the petitioner would submit that the bank details, which were culled out by the respondent for completing the assessments, pertain to savings bank account and not current account utilized for business purposes.

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5. However, this aspect could not have been tested by the respondent because the petitioner's whereabouts are not known. Therefore, the petitioner alone is to be blamed for the present consequence.

6. Faced with this situation, the learned counsel for the petitioner pleads that one more opportunity may be granted to the petitioner to go before the Assessing Officer and place all the details, as the petitioner is in severe financial distress for having closed down their business.

7. On this submission, I have heard the learned Government Advocate.

8. Taking into consideration the overall facts and circumstances of the cases, this Court is inclined to grant one more opportunity to the petitioner subject to certain conditions.

9. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 15% of the disputed tax for each of the assessment years within a period of six weeks from the date of receipt of a copy of this order. On such payment, the petitioner will be entitled to treat the impugned orders as show cause notices and submit their objections within two weeks. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner, verify the records that would be produced and redo the assessments in accordance with law. In case of any default, this order will not enure to the benefit of the petitioner and the writ petitions will stand automatically dismissed, leaving it open to the petitioner to work out their remedies under the provisions of the said Act. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS II)

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सत्यमेव जयते

Sub Assistant Registrar

To
The Commercial Tax Officer,
Vadapalani Assessment Circle, Chennai-6.

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+ 3 ccs to M/s. R. Hemalatha, Advocate SR.56718
+ 1 cc to Special Government Pleader SR.56749

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