In the High Court of Judicature at Madras

Dated : 25.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.37379 of 2016 & WMP.No.32030 of 2016

M/s.Acharyaa Agencies, rep.by
its Proprietor Mr.T.Vivekanandan ...Petitioner

Vs

1.The Deputy Commercial Tax Officer, Pollachi (East), Pollachi, Coimbatore District.

2.The Additional Commissioner (CT) (RP), Ezhilagam, Chennai-5. ...Respondents

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 first respondent in his notice in TIN 06-33642261634/CST 614915 dated 28.9.2016 and quash the same as illegal.

For Petitioner : Mr.S.Ramanathan

For Respondent : Mr.S.Kanmani Annamalai, AGP

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a dealer in electrical items, registered on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner has challenged the demand issued by the first respondent dated 28.9.2016 demanding tax and interest for the assessment year 2014-15.

3. The petitioner was assessed to tax by the order dated 20.10.2014 and a demand of Rs.58,000/- was made on the petitioner. It is seen that in the said assessment order, there was no levy of penalty. As against the assessment order dated 20.10.2014, the petitioner preferred an appeal before the Appellate Deputy Commissioner (CT), Pollachi in AP.No.VAT/115/2014 after remitting 25% of the disputed tax towards the

condition of predeposit. However, the said appeal was dismissed as not maintainable.

4. Thereafter, the petitioner filed a revision petition before the Joint Commissioner (CT), Coimbatore Division, which has been taken on file as R.P.No.190/2015. The said revision petition was also dismissed by the order dated 12.9.2015. Aggrieved by the order dated 12.9.2015, the petitioner preferred a second revision before the Additional Commissioner (RP), Chennai-5 and the same has been taken on file as R.P.No.183/2015. The second revision is still pending.

5. While so, by the impugned order, the petitioner has been directed to pay the balance amount of tax after giving credit to 25% of the disputed tax that was remitted by the petitioner while filing the appeal before the Appellate Authority. Apart from that, there is a demand for interest. When there is no levy of penalty in the assessment order dated 20.10.2014, the first respondent was not justified in demanding interest. Hence, the demand for interest has to be set aside.

6. So far as the demand for payment of balance amount of tax to the tune of Rs.43,500/- is concerned, since the second revision is pending before the Additional Commissioner (RP) in R.P.No.183/2015, the first respondent should await the decision in the second revision, more particularly when the petitioner's contention is that the year is already over, that the assessment order itself is a provisional assessment order and that as of now, the assessment has to be redone for the full year.

7. In view of the above, the writ petition is partly allowed and the demand for interest at Rs.19,082/- is quashed. In so far as the demand for the balance amount of tax is concerned namely Rs.43,500/-, the same shall not be demanded and the demand shall be kept in abeyance till the disposal of the second revision in R.P.No.183/2015 before the Additional Commissioner (RP), Chennai. No costs. Consequently, the above WMP is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1.The Deputy Commercial Tax Officer,
Pollachi (East), Pollachi,
Coimbatore District.

2.The Additional Commissioner (CT) (RP),
Ezhilagam, Chennai-5.

1 cc to Mr.S. Ramanathan, Advocate, Sr. 60662

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WMP.No.32030 of 2016

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