IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos. 964 & 965 of 2016 &

Tvl. Sri Parameshwari Oil Mill,
represented by its Proprietor
Mr.Krishnamoorthy,
Pilikalpalayam Post,
Paramathivelur Taluk,
Namakkal District. ..Petitioner in both Writ Petitions

Vs.

1. The Joint Commissioner (CT)
Office of the Commercial Taxes,
Salem Division, Salem.
2. The Commercial Tax Officer,
Namakkal Rural Assessment Circle,
Namakkal.

.. Respondents in both Writ Petitions

Prayer in both writ petitions : Writ petitions filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus to call for the records on the file of the first respondent order in Se.Mu.C.Pa.Va.No.451/2010/A11 dated 28.8.2012 for the assessment years 1999-2000 and 2001-2002, quash the same and direct the 1st respondent to receive the payment and issue the certificate of settlement of arrears of tax as per the Settlement of Arrears of Sales Tax Act 2010.

For Petitioner : Mr.S.N. Kirubanandam
For Respondents : Mr.S.Manoharan Sundaram, AGP.

ORDER

The petitioner has come forward with these writ petitions challenging the impugned orders dated 28.8.2012 passed by the 1st respondent for the assessment years 1999-2000 and 2001 - 2002 and consequently directing the 1st respondent to receive the payment and issue the certificate of settlement of arrears of tax and other lives as per the Settlement of Arrears of Sales Tax Act 2010.

2. Heard Mr. S.N. Kirubanandam, learned counsel appearing for the petitioner and Mr.S.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondents.

3. It is the case of the petitioner that the petitioner is doing the business of Gingely Oil and is an assessee on the file of the 2nd respondent under the Tamil Nadu General Sales Tax act and Central Sales Tax Act. Whileso, there was a fire accident in the business premises of the petitioner on 11.9.1999, due to which, the entire stock and machineries placed in the premises got destroyed. Thereafter, the petitioner stopped the business and has not been doing any business since then. However, the 2nd respondent appeared to have passed the assessment orders for the years 1999-2000 and 2001-2002.

4. Pursuant to the same, on the advice of the 2nd respondent, the petitioner wanted to settle the dispute under the Settlement of Arrears of Sales Tax Act, 2010 and has submitted three applications and also remitted a sum of Rs.93,750/- on 31.10.2010. On such remittance, the 1st respondent issued a certificate of settlement of arrears for the assessment year 1998-1999 vide its proceedings in Se.Mu.C.Pa.Va.No.451/2010/A11 dated 25.2.2013, wherein, an amount of Rs.71,291/- out of Rs.93,750/- was adjusted towards the amount payable for the year 1998-1999.

5. It is the further case of the petitioner that when the petitioner was under the impression that similar proceedings will be issued for the assessment years 1999-2000 and 2001-2002, to the shock and surprise of the petitioner, the 1st respondent has passed the impugned orders dated 28.8.2012, for the assessment years 1999-2000 and 2001-2002 stating that the petitioner has to pay the balance amount of Rs.1,413/- and Rs.5853/- for the respective assessment years and due to non payment of the same, the 1st respondent had rejected the applications filed by the petitioner under the Settlement of Arrears of Sales Tax Act, 2010.

6.Though it was stated in the impugned orders that demand notices were served on the petitioner, no such notices were issued on the petitioner. On receipt of the impugned orders, the petitioner expressed its willingness to pay the amount due for the respective assessment years. However, the 1st respondent refused to receive the same and advised the petitioner to obtain an order from the Court. Hence, the petitioner is before this Court with these Writ Petitions.

7. Learned counsel for the petitioner submitted that no demand notice was served on the petitioner. Though the petitioner had already remitted a sum of Rs.93,750/-, the 1st

respondent, without considering the same and without providing due opportunity, has passed the impugned orders and the same are arbitrary and in violation of the principles of natural justice.

8. Further, the learned counsel appearing for the petitioner submitted that the petitioner after receiving the impugned orders approached the 1st respondent for settlement of the amounts due (Rs.1413/- and Rs.5853/-) for the assessment years 1999-2000 and 2001-2002, but it is the first respondent who has refused to receive the same. Learned counsel also submitted that the petitioner is ready and willing to pay the balance amount to settle the dispute with the respondents.

9. On the other hand, learned Additional Government Pleader, on instructions, submitted that if the petitioner makes payment, the 1st respondent would receive the same.

10. Keeping the submissions made on either side, in order to give quietus to the issue involved herein, the petitioner is permitted to remit the amounts of Rs.1413/- + 5853/- in respect of the assessment years 1999-2000 and 2001 - 2002 before the 1st respondent within a period of two weeks from the date of receipt of a copy of this order. On making such payments, the first respondent shall receive the same and pass necessary orders with regard to settlement of arrears and issue settlement certificate to the petitioner under Samadhan Scheme within a period of two weeks thereafter.

11. Both the Writ Petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

msr
To

1. The Joint Commissioner (CT)
Office of the Commercial Taxes,
Salem Division, Salem.

2. The Commercial Tax Officer,
Namakkal Rural Assessment Circle,
Namakkal.

+1 cc to Mr.S.N.Kirubanandam Advocate vide sr.4346
+1 cc to Special Government Pleader(Taxes) vide
sr.4561

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skv(co)
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