



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.7.2016

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P. (MD) .No.12710 of 2016

M/s.T.M.J.Textile & Readymades,
rep.by its Proprietor Mr.M.Jeyaraja,
1/365-5, Rice Mill Road,
Puthiamputhur-628 402,
Tuticorin District.

.. Petitioner

Vs.

The Deputy Commercial Tax Officer,
Ettayapuram Assessment Circle,
Ettayapuram,
Tuticorin District.

.. Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in TIN 33275881926/2014-15 of the respondent dated 14.8.2015 and to quash the same as illegal, arbitrary and in violation of the principles of natural justice and direct the respondent to pass assessment order afresh after affording a opportunity of being heard to the petitioner as contemplated under Section 22(4) of the Tamilnadu Value Added Tax Act 2006.

For Petitioner : M/s.S.Karunakar

For respondent : Mr.R.Karthikeyan
Additional Government Pleader

ORDER

The Writ petitioner challenges the order of the second respondent dated 14.08.2015.

2. The case of the petitioner is that after the assessment order was passed on 14.08.2015, the respondent has subsequently passed a distraint notice dated 08.03.2016 stating that the petitioner has to pay a sum of Rs.2,53,705/- towards tax and penalty to the tune of Rs.3,80,705/-, totalling a sum of Rs.6,34,262/-. It is further stated that out of the said amount the petitioner has paid a sum of Rs.11,234/- for the month



of December, 2014 and January, 2015. Challenging the order dated 14.08.2015, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that it is not fair and proper for the respondent to issue a distraint notice dated 08.03.2016 demanding a sum of Rs.5,47,016/-, when the petitioner has paid a sum of Rs.11,234/- for the month of December, 2014 and January, 2015.

4. Mr.R.Raja Karthikeyan, learned Government Advocate was put on notice.

5. The case of the petitioner reminds me the story of *rip van winkle*. The petitioner has slept over the matter for a quite long time. Therefore, first of all, this Court is not inclined to entertain this Writ Petition on the ground that the notice dated 08.03.2016 has been served well in time and the petitioner has not chosen to take any steps to give reply to the said notice dated 08.03.2016. In other words, the petitioner could have very well defended his case by giving a suitable reply within the time stipulated in the Act. More than ten months have gone by since the date of issuing the original notice dated 13.07.2015 to the petitioner. Having failed to avail of the opportunities available to him, this Court has no option but to dismiss the Writ Petition.

6. Accordingly, this Writ Petition is dismissed in *limine*. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

ssm

To

The Deputy Commercial Tax Officer,
Ettayapuram Assessment Circle,
Ettayapuram,
Tuticorin District.

+1CC to Mr.S.Karunakar, Advocate Sr.No.38354

GJM/PEK/4.8.16-2p-3c