BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2016

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)Nos.15005 and 15006 of 2016
and
W.M.P.(MD)Nos.11057 and 11058 of 2016

M/s Sri Vignesh Agencies,
represented by its partner
S.S.Mahendra. ... Petitioner in both petitions

Vs.

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Commercial Tax Officer,
Thiruppathur Assessment Circle,
Commercial Taxes Office,
5/4, 56, Chinna Thoppu Street,
Thiruppathur,
Sivagangai District-630 211. ... Respondents in both petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for records pertaining to the impugned proceedings of the second respondent in TIN.33175501838/2007-08 and TIN.33175501838/2008-09 respectively, dated 27.05.2016 and quash the same.

For petitioner in both petitions : Mr.R.Veeramanikandan

For respondents in both petitions : Mr.R.Karthikeyan
Additional Government Pleader

COMMON ORDER

The petitioner in both petitions M/s Sri Vignesh Agencies has suffered with final assessment order at the hands of the Commercial Tax Officer, Thiruppathur in TIN.33175501838/2007-08 and TIN.33175501838/2008-09 respectively, dated 27.05.2016 on the sole ground that the petitioner Company has failed to file objection to the notice dated 05.08.2015. Aggrieved by the impugned order, the petitioner Company, who has filed a detailed reply to the said notice dated 05.08.2015 to the Commercial Tax Officer on 20.08.2015, has come to this Court challenging the same impugned order on the ground that the second respondent has wrongly passed the impugned order by totally suppressing the reply/objection dated 20.08.2015 filed by them by falsely averring that the petitioner assessee has not filed any objection. Since the petitioner Company made serious allegations against the Commercial Tax Officer, this Court issued notice to the respondents and directed the Additional Government Pleader to find out the correct state of affairs and to find out as to whether the statement made by the petitioner is correct or the statement made by the Commercial Tax Officer in the impugned order.

2. After taking notice, it was conceded that the petitioner assessee has given a detailed reply dated to the notice dated 05.08.2015. Therefore, this Court directed the Commercial Tax Officer, Thiruppathur to appear before this Court. Today i.e., 29.08.2016, the second respondent appeared and filed a detailed affidavit with unconditional apology. It is also taken on record.

3. A reading of the affidavit, it shows that there is no willful negligence on his part. Although he is the head of the office, any mistake committed by his subordinate, he sought for mercy of this Court stating that one A-1 Assistant Muthupandi, due to inadvertence, has failed to place the reply notice received by the office, on record. In view of the fact that the reply notice submitted by the petitioner assessee was not placed before him, he has come to the conclusion that the petitioner has failed to file reply and hence, he passed the impugned order.

4. This Court, considering the long service rendered by the second respondent, by accepting the unconditional apology shown in the affidavit dated 24.08.2016, directs the second respondent to pay a sum of Rs.5,000/- towards litigation expenses to the petitioner by way of Demand Draft.

5. Mr.N.S.Karthikeyan, learned Additional Government Pleader submitted that during the course of day, the Demand Draft will be handed over to the petitioner.

6. Recording the same, both the Writ Petitions stand disposed of. No costs. Consequently the connected Miscellaneous Petitions

are also closed. The second respondent is also directed to reconsider the case of the petitioner by taking note of the reply filed by the petitioner on merits and in accordance with law.

Sd/-
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

1.The Commissioner of Commercial Taxes,
O/o The Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005.

2.The Commercial Tax Officer,
Thiruppathur Assessment Circle,
Commercial Taxes Office,
5/4, 56, Chinna Thoppu Street,
Thiruppathur,
Sivagangai District-630 211.

+1 cc to The Special Government Pleader in SR.No. 48101/16

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CSL/GSV-PM/20.09.2016: 3p/4c

W.P(MD)Nos.15005 and 15006 of 2016

29.08.2016