BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :02.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.(MD).Nos.16661 to 16668 of 2016
and
W.M.P.(MD).Nos.12111 to 12118 of 2016

M/s.TVL.Sri Sudharsana Sabha,
Rep.by its Secretary,
15-A, 3rd Cross, Arulananda Nagar,
Thanjavur-613 007. .. Petitioner in WP(MD)No. 16661 to 16664/2016

M/s.TVL.Hotel Ramnath, Rep.by its Propeietor, R.K.Ramanathan,
No.1335, South Rampart, Old Bus stand,
Thanjavur. .. Petitioner in WP(MD)No. 16665 to 16668/2016

Vs.

1.The State of Tamil Nadu,
rep.by its Secretary,
CT&RE Department,
Fort.St.Geroge,
Secretariat,
Chennai-600 009.
2.The Commercial Tax Officer,
(Assistant Commissioner),
Thanjavur-II, Assessment Circle,
Thanjavur. ..Respondents in all Writ Petitions

Prayer in WP(MD)No. 16661 to 16664 of 2016 :

Writ Petitions is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus call for the records of the 2nd respondent in proceedings Rc.2008/2012/B1-3, 2008/2012-B1-2, 2008/2012-B1-1 and 2008/2012-B1-4 respectively and quash the proceedings dated 29.07.2016 issued therein and further direct the 1st respondent to consider the waiver petition dated 27.08.2016 filed by the petitioner and grant waiver to the petitioner herein for the assessment year 2014-15, 2013-14, 2012-13 & 2015-2016.

Prayer in WP(MD)Nos.16665/2016 to 16668/2016 :

Writ petition is filed Under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus call for the records of the 2nd respondent in proceedings

TIN:33433823692/2012-2013,TIN:33433823692/20132014, TIN:33433823692/2014-2015 and TIN:33433823692/2015-2016 respectively and quash the proceedings dated 29.07.2016 issued therein and further direct the 1st respondent to consider the waiver petition dated 27.08.2016 filed by the petitioner and grant waiver to the petitioner herein for the assessment year 2012-13, 2013-14, 2014-15 & 2015-2016.

For Petitioner :Mr.Thiyagarajan in all petitions

For Respondents :Mr.R.Karthikeyan
Additional Government Pleader in all petitions

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ORDER

In all the Writ Petitions, the petitioner-firm challenges the orders of the second respondent dated 29.07.2016, on the ground that the second respondent has failed to note that on expiry of the assessment year 2014-2015, the proper course of action is to first pass an assessment order and no recovery can be initiated without any assessment. However, in the case on hand, the second respondent has deviated the said principle. Therefore, the orders impugned in all the Writ Petitions to be set aside.

2. It is not known to this Court as to how the afore-said ground can be taken by the petitioner, when the assessing officer has dealt with each and every point urged by the petitioner herein in the impugned orders by referring to the orders passed by this Court. A perusal of the impugned orders would reveal the fact that there is complete discussion as regards the grievance aired by the petitioner. Therefore, the first contention is wholly misconceived.

3. Secondly, it is contended by the petitioner-firm that with regard to the same issue although a similar Writ Petition in W.P.(MD).Nos.16877 of 2012 & W.P.(MD).No.1653 of 2013 were dismissed on 04.01.2013, on the subject matter, a Special Leave Petition in SLP.No.1652 of 2013 is pending before the Hon'ble Apex Court. Therefore, in all fairness, the second respondent ought not to have passed the impugned orders and he should have waited for the final outcome of the pending Special Leave Petition.

4. The second contention is also wholly misconceived for the simple reason though the Special Leave Petition is pending, where, there is no interim order or atleast *status quo* has been granted by the Apex Court. The said fact is also observed in the operative portion of the impugned orders. As on date, the orders of the Division Bench are governing the field. That is the reason why, the impugned orders came to be passed by the respondents. Therefore, I am of the view that the second respondent has perfectly passed the present impugned orders. No interference is warranted to quash the orders impugned in all the Writ Petitions.

5. In the light of the above, this Court upholds the orders impugned in all these Writ Petitions and dismiss the Writ Petitions *in limine*. It is open to the petitioner-firm to work

out his remedy before the appellate authority in the manner known to law, if the petitioner-firm so desires. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(AE)

/TRUE COPY/

Sub Assistant Registrar

Note:
Registry is directed to return the original impugned orders to the learned counsel for the petitioner, after substituting the same with a photocopy thereof, in the bundle.

To
1.The Secretary,
The State of Tamil Nadu,
CT&RE Department,
Fort.St.Geroge,
Secretariat,
Chennai-600 009.

2.The Commercial Tax Officer,(Assistant Commissioner),
Thanjavur-II, Assessment Circle,
Thanjavur.

+8cc's to Mr.A.Thiyagarajan, Advocate in SR.No. 49607
+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 50059

Copy to :
The Section Officer
E.R.Section,
Madurai Bench of Madras High Court, Madurai.

JA-PV-29.09.2016-3P:11C

W.P.(MD).Nos.16661 to 16668 of 2016
and
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