IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.12.2017

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No. 33594 of 2017
and
W.M.P.Nos.37142 and 37143 of 2017

M/s.Mahe Auto Fuel Enterprises
Bharath Petroleum Dealer
Rep.by its Partner Mr.K.E.Naushad
Poozhithala, Mahe,
Pondicherry. ...Petitioner

Vs.

1.The Appellate Assistant Commissioner,
Commercial Tax Department,
Pondicherry.

2.The Commercial Tax Officer,
Mahe, Pondicherry State.

3.Bharat Petroleum Corporation Ltd,.
Rep.by its Manager (Retail),
Calicut Territory Office
Callicut. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for the records relating to notice No.640/CTD/CTO(M)/2017-18, dated 12.12.2017 passed by the second respondent, and to quash the same and consequently to direct the second respondent to unlock the facility to download C-form by the petitioner.

For Petitioner : Mr.K.Raja Shrinivas for
: M/s.Meera Gnanasekar

For Respondents : Mr.J.Kumaran
Government Advocate

O R D E R

Heard Mr.K.Raja Shrinivas, the learned counsel appearing on behalf of M/s.Meera Gnanasekar, the learned counsel for the petitioner and Mr.J.Kumaran, the learned Government Advocate, accepting notice on behalf of the respondents. With consent on either side, the Writ Petition is taken up for disposal.

2. The petitioner has filed this Writ Petition, challenging the demand notice issued by the second respondent, demanding a sum of Rs.1,17,97,795/-, being the Value Added Tax (VAT) payable by the petitioner for the months of September 2017 and October 2017.

3. The petitioner's case is that, it is never their intention not to pay the tax, but due to unexpected contingency and stringent financial crisis, they were unable to pay the tax. It is their further case that, the petitioner's bona fidies can be seen from the fact that, they had paid a sum of Rs.1,00,04,645/-, towards arrears of sales tax, and the second respondent has received such payment.

4. The learned counsel appearing for the petitioner would plead that, if the petitioner is granted some time to remit the arrears on installment basis, entire arrears will be cleared, and the Authorities may be directed to unlock the on-line facility for generation of Form-C Declaration.

5. Unfortunately, there is no provision under the Puducherry Value Added Tax Act, to permit the dealer to remit tax in installments. If that be so, the Court would not be justified in granting such indulgence. However, this will not preclude the second respondent from considering the bona fidies of the dealer/petitioner, and make necessary accommodation. This is, with a view to ensure that the tax is collected from the defaulting dealer at the earliest.

6. Considering the fact that the petitioner has already remitted a Rs.1,00,04,645/-, the petitioner is directed to pay a sum of Rupees 35 lakh towards the arrears of sales tax for the months of September 2017 and October 2017, and if the said remittance is made, the second respondent shall consider as to whether the on-line generation of Form-C Declaration can be unlocked. The petitioner should also give an undertaking, as to how, they propose to liquidate the balance. It is made clear that, this direction has been issued only in respect of the arrears for September 2017 and October 2017, and the same will not enure to the benefit of the petitioner for the future months and the petitioner has to pay the sales tax promptly for the future months.

7. With these observations, this Writ Petition is disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dna/sd

To

1.The Appellate Assistant Commissioner
Commercial Tax Department
Pondicherry.

2.The Commercial Tax Officer
Mahe, Pondicherry State.

3.Bharat Petroleum Corporation Ltd,.
Rep.by its Manager (Retail)
Calicut Territory Office
Callicut.

+1cc to Ms.Meera Gnanasekar, Advocate, S.R.No.92304

+1cc to the Government Pleader, S.R.No.92434

Writ Petition No.33594 of 2017

SSD(CO)

RRK(03/01/2018)