In the High Court of Judicature at Madras

Dated : 08.9.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.23914 & 23915 of 2017
& WMP.Nos.25175 to 25178 of 2017

M/s.Raja Pannai Service, rep.by
its Proprietor Mr.M.R.Jeyadevan ...Petitioner

Vs

The Commercial Tax Officer,
Panruti (Rural) Assessment
Circle, Panruti. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent respectively in TIN 33164501531/2012-13 and TIN 33164501531/2013-14 dated 06.10.2015, quash the same as illegal violative of principles of natural justice and contrary to the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran
For Respondent : Mr.K.Venkatesh, GA

COMMON ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed these writ petitions challenging the assessment orders for the years 2012-13 and 2013-14.

3. The case of the petitioner is that the revision notices dated 03.8.2015 were not served on the petitioner and the

impugned orders of assessment were also not served on the petitioner.

4. Therefore, this Court, by order dated 05.9.2017, directed the learned Special Government Pleader to get instructions in the matter. Today, when the case is taken up for hearing, the written instructions given by the Deputy Commercial Tax Officer, Panruti (Rural) have been produced before this Court, from which, it is seen that the respondent had taken a stand that the revision notices were sent by registered post, but they were returned unserved and that the petitioner has knowledge of the contents of the notices, but intentionally avoided to receive the same. It is further submitted that the assessment orders were served on the dealer by affixure by following due procedure under Rule 19 of the Tamil Nadu Value Added Tax Rules, 2007.

5. The learned counsel for the petitioner vehemently contends that the respondent has not taken a definite stand that the petitioner refused to receive the revision notices and only then, alternate modes of service could have been adopted. So far as the service of assessment orders is concerned, it is submitted that the respondent has not definitely stated as to why they resorted to affixure and that there is nothing to show that alternate modes of service were required to be adopted because the petitioner was adopting dilatory tactics.

6. After hearing the learned counsel for a considerable length of time, this Court is of the view that it may not be necessary for this Court to go into the controversy as to whether the revision notices were duly served on the petitioner and as to whether the assessment orders were required to be served by affixure, since this Court is satisfied that the petitioner can be afforded one more opportunity to go before the Assessing Officer subject to a condition.

7. Accordingly, the writ petitions are disposed of directing the petitioner to pay 25% of the disputed tax for each of the assessment years namely 2012-13 and 2013-14 within 15 days from the date of receipt of a copy of this order. On such payment, the petitioner will be entitled to treat the impugned assessment orders as show cause notices and submit their objections within a period of seven days thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments on merits and in accordance with law. In the event the petitioner fails to comply with the condition imposed in this order, the benefit of this order will not enure to the petitioner, leaving it open to the parties to work out their remedies in accordance with law. In

the light of the above directions, the auction notice in Na.Ka.A3/819/2015 dated 15.5.2017 issued by the respondent shall remain stayed. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer, Panruti (Rural) Assessment Circle, Panruti.

+2 ccs to M/s.V.Sundareswaran Advocate sr 65520
+1 cc to Special Government Pleader Taxes High Court Madras sr 65496

WP.Nos.23914 & 23915 of 2017 &
WMP.Nos.25175 to 25178 of 2017

sj(co)
aa04/10/2017