

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.8302 of 2009

and

M.P. No. 1 of 2009

Tvl. Shiv Machine Tools
Rep by its Chief Executive
Hitesh V. Shah
102, Armenian Street
Chennai - 600 001.

... Petitioner

Vs.

The Assistant Commissioner (CT)
Harbour -IV Assessment Circle
Wavoo Complex, 7th Floor
191, NSC Bose Road
Chennai - 600 001.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, call for the records pertaining to the order of the respondent issued in TIN/33220060838/2008-2009 dated 28/01/2009 and quash the same as arbitrary, illegal and as excess of jurisdiction.

For Petitioner .. Mr.P.R.Kumar

For Respondent .. Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.P.R.Kumar, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With consent of the learned counsel for both sides, the writ petition itself is taken up for final disposal.

2.The petitioner is aggrieved by the proceedings issued by the respondent dated 28.01.2009, by which, the respondent has directed the petitioner to increase the security given at the time of obtaining registration to Rs.5,00,000/- [Rupees Five Lakhs Only]. The only reason given in the impugned order is by stating that considering the volume of transactions and claim of

ITC and the arrears the petitioner has to pay, it is proposed to fix the security at Rs.5 lakhs for proper realisation of tax and arrears.

3. There is no allegation against the petitioner that he is ineligible to avail ITC. That apart, there is no specific averment as to during which assessment order, there were arrears of tax. Thus, the impugned proceedings is a non-speaking order without proper reasons. However, by efflux of time the impugned order has worked itself out, since the petitioner's turnover would have increased much more as of now. Therefore, the impugned order cannot be enforced against the petitioner at this juncture. More so, when he has obtained an interim order while the writ petition was entertained.

4. For the above reason, the writ petition stands allowed and the impugned order is quashed, leaving it open to the respondent to initiate fresh action if the same is warranted after giving due opportunity to the petitioner.

Sd/-

Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

may
To

The Assistant Commissioner (CT)
Harbour -IV Assessment Circle
Wavoo Complex, 7th Floor
191, NSC Bose Road
Chennai - 600 001.

+1cc to Mr.P.R.Kumar, Advocate SR.No.79750/17

+1cc to Special Government Pleader SR.No.80061/17

W.P. No.8302 of 2009

SR(CO)
sm:6.12.2017

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