

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. No.15473 of 2017

and

W.M.P.Nos.16761 & 16762 of 2017

M/s.Padmashri Oil Refineries
Rep by its Partner S.Santhi,
Tajpura, Arcot,
Vellore District.

... Petitioner

Vs

The Commercial Tax Officer,
Arcot,
Vellore District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue writ of certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33724581539/2015-16 dated 15.02.2017 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.J.Prasanna Kumar

For Respondents : Mr.K.Venkatesh,
Government Advocate

ORDER

The petitioner is aggrieved by the order passed by the respondent dated 15.02.2017.

2. Heard both sides.

3. It is not in dispute that before passing the impugned order, the petitioner was served with a notice of proposal. It is also not in dispute that the petitioner has not filed any response to the notice. However the learned counsel for the petitioner submitted that factually, the contention raised in

the notice of proposal is not correct and the petitioner is having enough materials to contend that the imposing of tax on penalty is bad in law. It is needless to say that the petitioner, without giving any reply to the notice of proposal, is not entitled to seek indulgence of this Court, that too, in a discretionary jurisdiction exercised under Article 226 of the Constitution of India, as all the factual contentions raised herein can be raised before the appellate authority, who is undoubtedly the fact finding authority as well. Therefore, this writ petition is disposed of, with liberty to the petitioner to file appeal before the appellate Authority within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, concerned authority shall pass orders on merits and in accordance with law without any reference to the period of limitation. Respondent is directed not to take any coercive step against the petitioner until the petitioner files an appeal as stated supra. No costs. Connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq

To

The Commercial Tax Officer,
Arcot,
Vellore District.

+1cc to M/s.R.Hemalatha Advocate, S.R.No.43231

+1cc to the Special Government Pleader(T), S.R.No.43560

W.P.No.15473 of 2017

and

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EV(CO)

CA(29/06/2017)

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