IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2017

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.Nos.16241 to 16243 of 2017 and
W.M.P.Nos.17574 to 17579 of 2017

Tmt.S.Senthamizh Selvi ... Petitioner in all W.Ps

Vs.

1.The Commercial Tax Officer,
Villupuram-I Assessment Circle,
Villupuram.

2.The Assistant Commissioner (CT),
Villupuram-I. ... Respondents in all W.Ps

Prayer in all W.Ps : Petitions filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, to call for the impugned proceedings of the first respondent in TIN No.33784681998/2008-09, 2009-10, 2010-11 and quash the assessment order dated 22.04.2016, as passed without authority of law, against the principles of natural justice.

For Petitioner : Mr.P.Rajkumar
For Respondents : Mr.K.Venkatesh,
Government Advocate

COMMON ORDER

Heard Mr.P.Rajkumar, learned Counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2. With the consent on either side, the writ petitions themselves are taken up for disposal.

3. The petitioner is before this Court, challenging the orders of assessment for the years 2008-09, 2009-10 and 2010-11. The substantial part of the mistake lies with the dealer, as they did not respond to the revision notice dated 01.04.2016.

4. The first respondent issued notices dated 01.04.2016, pointing out that on verification of the assessment filed for the relevant years, it was seen that the petitioner had not filed the agreement copy for the work undertaken by them. Therefore, the petitioner was instructed to file the agreement copy immediately, failing which, the best of judgment revision order would be passed under Section 27 of the Act.

5. The petitioner though received the notices did not produce the agreement copies. Therefore, the first respondent completed the assessment and confirmed the proposal in the notice dated 01.04.2016. After almost one year, the petitioners have filed these writ petitions because the respondent issued attachment notice for attaching the

petitioner's bank account. These writ petitions should not have been entertained at the first instance, since the petitioner did not explain the gross delay in approaching this Court, especially, when the limitation prescribed for filing the appeal was over and no appeal could have been filed by the petitioner.

6. The learned counsel for the petitioner submits that it is true that the mistake has been committed by the dealer in filing objections. The petitioner is a dealer, who has been carrying on works contract for Government Departments, such as local bodies and the Block Department Officer of the concerned local body has given requisite certificates and made endorsement in the ledger entries and the petitioner may be granted one opportunity to go before the first respondent and place those documents.

7. On a perusal of the income and expenditure accounts filed by the petitioner under the Income Tax Act for the relevant assessment years, it is seen that the substantial portion of the work has been done by the petitioner for various local bodies and the petitioner has given the contract number and also mentioned about the departmental supply of materials wherever, it has been given. It may be true that the petitioner did not

produce the copy of the contract agreement. However, the petitioner having transacted business with the Governmental bodies, the first respondent can accept any authenticated record by the concerned authority for whom the work has been performed by the petitioner and this in my view would be sufficient to examine the correctness of the transaction reported by the petitioner in their turn over. To enable the petitioner to be entitled to such opportunity, they should be put on terms.

8. Accordingly, the petitioner is directed to pay 15% of the dispute Tax for each of the assessment years as computed in the impugned assessment orders, within a period of 15 days from the date of receipt of a copy of this order. If such payment is made, the petitioner is entitled to treat the impugned orders as show cause notices and submit her objections and appear before the authority by producing documents duly attested by the concerned officers, which shall be examined by the first respondent and the assessment be re-done on merits and in accordance with law.

9. However, if the petitioner fails to comply with the conditional order in paying 15% of the disputed tax, the benefit of this order would not enure to the petitioner and the writ petitions would stand dismissed automatically, leaving it open to the petitioner to work out her remedies in

accordance with law. The attachment of the property of the petitioner shall continue till further orders are passed in terms of the above direction.

10. With the above direction, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

31.07.2017

Index : No
Internet : Yes
gsk

To

1.The Commercial Tax Officer,
Villupuram-I Assessment Circle,
Villupuram.

2.The Assistant Commissioner (CT),
Villupuram-I.

T.S.SIVAGNANAM, J.

gsk

W.P.Nos.16241 to 16243 of 2017

31.07.2017