IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.10.2017

CORAM

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

W.P.Nos.26398 and 26399 of 2017
and
W.M.P.Nos.28059 to 28062 of 2017

P. Periyasamy
rep. by its Proprietor of Manikandan Hardwares,
...Petitioner in both the W.Ps

Vs.

The Commercial Tax Officer [Addl],
Kallakuruchi,
Villupuram Distirct. ...Respondent in both the W.Ps

Prayer in W.P.No.26398 of 2017:

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN 33574784400/2014-15 [inadvertently mentioned as 2014-15 instead of 2013-14] dated 14.01.2016 quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.26399 of 2017:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records on the file of the respondent in his impugned proceedings made in TIN 33574784400/2014-15 dated 14.01.2016 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner in both the W.Ps : M/s. R.Hemalatha

For Respondent in both the W.Ps : Mr.K.Venkatesh Government Advocate

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COMMON ORDER

Heard M/s. R.Hemalatha, the learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate, accepting notice on behalf of the respondent. With the consent of the learned counsel appearing on either side, both the Writ Petitions are taken up for disposal.

2. The petitioner is before this Court, challenging the assessment orders passed for the years 2013-14 and 2014-15 respectively. The first hurdle, that the petitioner has to cross, is to convince this Court, as to how, the Writ Petitions are maintainable, challenging the assessment orders, dated 14.01.2016. Admittedly, the time limit precribed for filing Appeal against the impugned assessment orders has expired long back. The second hurdle, which the petitioner has to cross, is to convince this Court, as to why, the petitioner did not file objections to the Revision Notice, dated 30.11.2015 and did not avail an opportunity of personal hearing offered vide notice, dated 28.12.2015. The petitioner does not have any convincing answer for both the above issues, but, would submit that assessment orders have been passed on 14.01.2016, and it is based on information culled out from the official website of the Department, and if details had been furnished to the petitioner, they would have been in a position to show that the alleged missmatch is incorrect.

3. Considering the fact that, though the assessment orders were passed in the month of January, 2016, till date, the respondent has not taken any steps to recover the tax or penalty, as quantified in the impugned assessment orders, this Court is of the view that, one more oppourtunity may be granted to the petitioner to go before the Assessing Officer, subject to certain conditions. The petitioner is directed to pay 15% of disputed tax for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order.

4. Accordingly, this Writ Petitions are disposed of. Consequently, connected Writ Miscellaneous Petitions are closed. No costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

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To

The Commercial Tax Officer [Addl],
Kallakuruchi,
Villupuram Distirct.

+2cc to M/S.Thirumathi R.Hemalatha Advocate SR.Nos.72789 dated 11.10.2017

W.P.Nos.26398 and 26399 of 2017
and
W.M.P.Nos.28059 to 28062 of 2017

SDR 17.11.2017

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