In the High Court of Judicature at Madras

Dated : 26.10.2017

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.27453 of 2017 & WMP.No.29341 of 2017

Tvl.Care & Cure Inc., rep. by
its Proprietor Mr.S.Dhandapani ...Petitioner

Vs

The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
Chennai-28. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in CST/771237/2013-14 dated 26.11.2015 and quash the same as arbitrary and illegal.

For Petitioner : Mr.T.V.Ganesh

For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the assessment order dated 26.11.2015.

3. Admittedly, the period of limitation for filing an appeal has expired and the petitioner has not availed the same. This is sufficient to reject the writ petition and dismiss it at the admission stage. However, this Court finds that though the impugned order has been passed on 26.11.2015, no steps appear to have been taken to recover tax as quantified in the impugned order. Further, on perusal of the pre-assessment notice dated 15.9.2015, this Court finds that as regards the proposals made therein, the petitioner has given their reply dated 10.10.2015 duly supported by documents. But, there is no reference in the impugned order as to the petitioner's reply. Therefore, this Court is inclined to give one more opportunity to the petitioner

to go before the Assessing Officer, however, subject to a condition.

4. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with this condition, they will be entitled to treat the impugned assessment order as a show cause notice and submit their objections within a period of 15 days thereafter. On receipt of the objections, the respondent shall consider the same, afford an opportunity of personal hearing and redo the assessment in accordance with law. If the petitioner fails to comply with the above condition, the writ petition would stand automatically dismissed without further reference to this Court and the respondent is entitled to recover the tax as quantified in the impugned assessment order. No costs. Consequently, the above WMP is closed.

sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

RS

To

The Assistant Commissioner (CT),
Kotturpuram Assessment Circle,
Chennai-28.

+ 1 cc to Mr.P.R.Kumar, Advocatesr.no.75475

The Special Government Pleader, sr.75899

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RR 21/11/2017