In the High Court of Judicature at Madras

Dated : 07.11.2017

Coram

The Honourable Mr.Justice T.S.SIVAGNANAM

W.P.No.28376 of 2017 & WMP.No.30474 of 2017

AVR SS Builders, rep. by
its Partner A.B.S.Sanjjay ...Petitioner

Vs

The Assistant Commissioner (ST)
(FAC), Arisipalayam Circle, Salem. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent herein in TIN 33482844013/2010-11 dated 28.9.2017 and quash the same.

For Petitioner : Mr.A.N.R.Jayapratap
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 is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and is aggrieved by the impugned assessment order dated 28.9.2017 for the year 2010-11.

3. The learned counsel for the petitioner submits that though the petitioner made an oral request to the Assessing Officer on 25.9.2017 to grant some more time for them to submit their objections, the impugned assessment order has been passed on 28.9.2017. The second contention raised by the learned counsel for the petitioner is that the impugned assessment order is barred by limitation.

4. However, such a plea has not been raised by the petitioner in the affidavit filed in support of this writ petition, but is raised only during the course of arguments. The learned counsel for the petitioner submits that the petitioner has got an excellent case on merits and that one more

opportunity may be granted to the petitioner.

5. Considering the facts and circumstances of the case, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

6. 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 the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (ST) (FAC), Arisipalayam Circle,
Salem.

+1cc to the Government Pleader(TAXES), S.R.No. 78963
+1cc to Mr.A.N.R.JAYAPRATHEP Advocate, S.R.No. 79375

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