IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.44440 to 44442 of 2006 & M.P.Nos.2,2 & 2 of 2006

Tvl.Harikrishna Metal Industries,
Rep. by Ret., Partner, Mr.S.Kartar Singh,
No.39, North Parade Road,
Chennai-16. ... Petitioner
in all W.Ps.

Vs.

The Commercial Tax Officer,
Korattur Assessment Circle,
18, Railway Station Road,
Korattur, Chennai-80. ... Respondent
in all W.Ps.

Petitions filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records on the files of the respondent in TNGST/1440131/96-97, 95-96 & TNGST/167391/94-95 respectively, dated 15.06.2006 and quash the same being illegal, invalid and against the principle of natural justice and direct the respondent to issue the notices to the business handling partners residential address before completing the assessment.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.S.Kanmani Annamalai,
Additional Government Pleader

*****



C O M M O N O R D E R

Heard Mr.D.Vijayakumar, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondent.

2.In all these three writ petitions, the petitioner has challenged the assessment orders dated 15.06.2006 under the provisions of the Tamil Nadu General Sales Tax Act, 1959 (in short “TNGST Act”) for the assessment years 1994-95, 1995-96 & 1996-97. The main ground on which the petitioner has challenged the impugned order is by contending that the order cannot be enforced on the petitioner, since the petitioner has resigned from the partnership firm. Further it is contended that in so far as the assessment under the Central Sales Tax Act, 1956 is concerned, the continuing partners had contested the assessment proceedings and in fact they had also challenged the same before the appropriate authorities. However, those continuing partners are no more.

3.Learned counsel for the petitioner does not have specific instructions as to the present state of affairs.

4.Learned Additional Government Pleader points out that at the time when the writ petitions were filed, an interim order was granted subject to the condition that the petitioner deposits 50% of the amount demanded within a time frame. This order was not complied with. Consequently, stay order stood automatically vacated.

5.This Court is not inclined to keep these matters pending any longer as more than ten years had lapsed, since the writ petition has been filed. The interim order stood vacated in December 2006 itself. Therefore, if the issue still survives for consideration, liberty is granted to the petitioner or the surviving partners to file appeals against the impugned assessment orders before the Appellate Deputy Commissioner (Taxes), Chennai and the appellate authority, while computing the limitation for filing the appeal, shall exclude the period during which these writ petitions are pending i.e. from 14.11.2006, till date of receipt of the certified copy of this order.

Accordingly, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

abr



sd/
ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To

The Commercial Tax Officer,
Korattur Assessment Circle,
18, Railway Station Road,
Korattur, Chennai-80.

+1CC to Mr.D.VIJAYA KUMAR Advocate SR.NO.71949
+1CC to Spl. Govt. Pleader SR.NO.72067

W.P.Nos.44440 to 44442 of 2006

AD[CO]
MK:15/11/2017