BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 13.04.2017
CORAM :
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD) No.5123 of 2017
and
W.M.P.(MD).No.4116 of 2017

M/s.Sri Priya Electricals and Hardwares,
Rep. by its Partner Mr.B.Kalanjiyam,
No.8,9 Lalgudi Main Road,
No.1 Toll Gate, Trichy -621 216. ... Petitioner

Vs.

1.The Appellate Deputy Commisssioner (CT),
Trichy.

2.The Commercial Tax Officer,
Lalgudi Assessment Circle,
Trichy. ... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the first respondent in S.P.No.219/2016 in VAT.A.P.No.263/2016 dated 24.10.2016 and quash the same pending disposal of the appeal in VAT.A.P.No.263/2016.

For Petitioner : Mr.G.Mutharasu
For Respondents : Mr.R.Karthikeyan

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O R D E R

The Writ Petition is filed challenging the order dated 24.10.2016 in VAT.A.P.No.263 of 2016 by the first respondent appellant authority.

2.Heard Mr.G.Mutharasu, learned Counsel appearing for the petitioner and Mr.R.Karthikeyan, the learned counsel appearing for the respondents.

3.The petitioner in the writ petition has filed an appeal before the first respondent challenging the order of assessment in the proceedings dated 26.08.2016 in TIN No.3395 3481578/2011-2012. During the pendency of appeal in VAT.A.P.No.263 of 2016, the petitioner herein filed a stay petition in S.P.No.219 of 2016. Recording the fact that the petitioner has no prima facie case, the petition for a stay was dismissed by holding that the order of assessment passed by the assessing officer can be sustained.

4.The learned counsel for the petitioner submitted that the petitioner has paid 50% of the tax to the credit of the order of assessment. In such circumstances, the learned counsel for the petitioner requested this court to show some lenience. Without going into the merits of the case and considering the facts that the petitioner has already paid 50% of the tax as per the assessment order, this writ petition is disposed of with the following directions:

a.The petitioner in the writ petition is directed to pay another 10% of the tax demanded as per the assessment order dated 26.08.2016 within a period of two weeks from the date of receipt of a copy of this order.

b.Subject to the payment of 10% of the tax with in two weeks, there shall be an order of stay of all further proceedings pursuant to the impugned order of assessment dated 26.08.2016 till the disposal of the appeal by the first respondent in VAT.A.P.No.263 of 2016.

5.Accordingly, the writ petition is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Appellate Deputy Commisssioner (CT),
Trichy.

2.The Commercial Tax Officer,
Lalgudi Assessment Circle,
Trichy.

+1 CC to MR.S.MUTHARASU, Advocate, SR No. 51963
+1 CC to M/s.THE SPECIAL GOVERNMENT PLEADER, SR No. 52257
GSP/MR
PSM/SV-MMS/SAR3/27.04.2017/2P/5C

ORDER MADE IN
W.P.(MD).No.5123 of 2017
13.04.2017