In the High Court of Judicature at Madras
Dated : 03.8.2018
Coram :
The Honourable Mr.Justice T.S.SIVAGNANAM
Writ Petition Nos.20097 to 20101 of 2018 &
WMP.Nos.23564 to 23568 of 2018

Tvl.Thangam Agencies, rep.by
its Proprietor S.T.Thenaruvi ...Petitioner in all Wps

Vs

The Commercial Tax Officer,
Tiruchengode Town Assessment
Circle, Tiruchengode. ...Respondent in all WPs

PETITIONS 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 in TIN.No.33583183555/2009-10, TIN.No. 33583183555/2010-11, TIN.No.33583183555/2011-12, TIN.No.33583183555/2012-13 and TIN. No.33583183555/2013-14, all dated 10.8.2017 and quash the same as being invalid, illegal and contrary to the direction issued by this Court in W.P.Nos. 9169 to 9173 of 2016 dated 23.3.2016.

For Petitioner : Mr.R.Senniappan
For Respondent : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner has challenged the assessment orders dated 10.8.2017 for the years from 2009-10 to 2013-14 only on the ground that they are contrary to the directions issued by this Court in the earlier writ petitions in W.P.No.9169 to 9173 of 2016 dated 23.3.2016.

3. Learned counsel for the petitioner has vehemently contended that when this Court, in the earlier writ petitions, specifically directed the respondent to take note of the decision of the Hon'ble Division Bench of this Court in the case of USA Agencies Vs. State of Tamil Nadu [reported in 66 VST 75], the respondent did not do so.

4. On a perusal of the impugned orders, this Court finds that though the common order dated 23.3.2016 has been referred to, certain reasons have been given by the respondent to state that the common order dated 23.3.2016 is not applicable to the petitioner's case. The correctness of the said finding has to be interpreted with regard to the factual matrix and therefore, the petitioner has to necessarily avail the appeal remedy.

5. The problem that has been faced by the petitioner is that as of now, if the appeals are presented, they will be dismissed as barred by time. Taking note of the fact that though the impugned orders were passed in August 2017, for almost one year, the impugned orders remain as paper orders and no tax could be recovered from the petitioner, this Court is of the view that the petitioner can be permitted to file appeals as against the impugned assessment orders by granting some time.

6. Thus, the writ petitions are disposed of by directing the petitioner to prefer appeals before the Appellate Deputy Commissioner (CT), Erode within a period of 30 days from the date of receipt of a copy of this order. If the appeals are presented within the time stipulated, the Appellate Authority shall not reject the same on the ground of limitation. No costs. Consequently, the connected WMPs are closed.

7. After the above order is dictated, the learned counsel for the petitioner submits that the petitioner is in deep financial crisis and making a pre-deposit of 25% of the admitted tax would be very difficult and that the petitioner may be permitted to approach the Assessing Officer under Section 84 of the Tamil Nadu Value Added Tax Act, 2006.

8. The said provision being in the Statute, if, according to the petitioner, there is any error in the impugned assessment orders, it is open to the petitioner to invoke such a remedy under Section 84 of the said Act.

Sd/-
Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Tiruchengode Town Assessment Circle,
Tiruchengode.

+1cc to Mr.R.Senniappan, Advocate SR.No.53558
+1cc to Special Government Pleader(Taxes) SR.No.53645
RS

WP.Nos.20097 to 20101 of 2018&
WMP.Nos.23564 to 23568 of 2018

VSNII(CO)
GN(27/08/2018)