IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

Writ Petition No.7139 of 2018
and W.M.P.No.8844 of 2018

Tvl Blaze Tech
Rep., by its Proprietor, Mr.V.Rajesh,
No.12/16, Poomagal, 2nd Street,
Ekkattuthangal, Chennai -32. .. Petitioner

Vs.

1.The Assistant Commissioner (ST),
Guindy Assessment Circle,
No.46, Greenways Road,
Chennai - 28.

2.The Deputy Commercial Tax Officer (Enf),
Roving Squad,
Thiruvannamalai. .. Respondents

Petition filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records of the first respondent in proceedings dated 06.03.2018 in TIN/33176437389/2016-17 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondents: Mr.M.Hariharan AGP (T) for RR1&2

O R D E R

The above Writ Petition is filed to issue a Writ of Certiorari to call for the first respondent's proceedings, dated 06.03.2018 and quash the same.

2.It is the case of the petitioner that the respondent demanding payment of compounding fee as one of the contingent for the release of the goods is erroneous. It is also a settled position that if a person is not willing to compound, the only alternative is to initiate prosecution and hence, no person can be compelled to compound an offence and the unilateral demand for payment of a large sum of money towards compounding fee was unsustainable.

3.The learned counsel for the petitioner submitted that challenging the order passed, the petitioner filed a revision petition under Section 54 of the Tamil Nadu Value Added Tax Act. However, due to ignorance and inadvertence, the petitioner sent a revision petition by registered post to the second respondent at Tiruvannamalai instead of sending it to the Revisional Authority i.e., the Joint Commissioner (CT), Vellore. Even though, the mistake was done inadvertently, the second respondent could have forwarded the revision petition to the Joint Commissioner or return the same to the petitioner. However, the second respondent has not done anything to either send it to the Joint Commissioner (CT), Vellore or return the papers to the petitioner for presenting before the appropriate authority. The learned counsel for the petitioner submitted that an opportunity may be given to the petitioner to file a fresh revision before the Joint Commissioner (CT), Vellore.

4.Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondents submitted that the petitioner may be directed to present the revision petition before the Joint Commissioner (CT), Vellore and the Revisional Authority may be directed to decide the revision to be presented by the petitioner in accordance with law.

5.In view of the submissions made by the learned counsel on either side, since the petitioner inadvertently sent the revision filed under Section 54 of the Tamil Nadu Value Added Tax Act to the second respondent i.e., the Deputy Commercial Tax Officer, (Enf), Roving Squad, Thiruvannamalai, an opportunity can be given to the petitioner to present the revision before the appropriate Revisional Authority, namely, the Joint Commissioner (CT), Vellore. Accordingly, I permit the petitioner to present the revision before the Joint Commissioner (CT), Vellore, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the Joint Commissioner, (CT), Vellore is directed to decide the revision to be presented by the petitioner on merits and in accordance with law after giving due opportunity of personal hearing to the petitioner.

With these observations, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (ST),
Guindy Assessment Circle,
No.46, Greenways Road,
Chennai - 28.

2.The Deputy Commercial Tax Officer (Enf),
Roving Squad,
Thiruvannamalai.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.23441

+1cc to Special Government Pleader, S.R.No.24082

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GSP(09/04/2018)