In the High Court of Judicature at Madras

Dated : 24.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10151 to 10154 of 2018
& WMP.Nos.12095 to 12098 of 2018

M/s.Kathir Traders, rep.by
its Proprietor M.Kathiravan ...Petitioner
(in all W.Ps)

Vs

1.The Commercial Tax Officer, Group VII Enforcement (North), Greams Road, Chennai-6.

2.The Joint Commissioner (CT), Enforcement-I, Chennai.

3.The State Tax Officer, Harur Assessment Circle, Harur. ...Respondents
(in all W.Ps)

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the third respondent in his proceedings in TIN Nos.33273343242/2011-12, 33273343242/2012-13, 33273343242/2013-14 and 33273343242/2014-15, quash the orders dated 28.3.2018 received by the petitioner on 12.4.2018 and direct the respondents to follow procedure contemplated under the Act by giving personal hearing etc.

For Petitioner :Mr.M.Md.Ibrahim Ali
For Respondents:Mr.M.Hariharan, AGP(in all W.Ps)

COMMON ORDER

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

2. These are classic cases where the dealer absolutely has no respect to the orders passed by this Court and yet has approached this Court once again by way of these writ petitions. This is the third round of litigation. In the earlier two rounds of litigation, contentions were raised stating that there had been a violation of the principles of natural justice and that independent decision had not been taken by the Assessing Officer, etc. This Court, in the second round of litigation, by

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an order dated 29.6.2017, dismissed the writ petition in W.P.No.16344 of 2017 and directed the petitioner to file objections. In spite of such a direction, the petitioner did not file their objections, but repeatedly took adjournments before the third respondent.

3. A reading of the impugned orders, more particularly paragraph 4 of the impugned orders, shows the conduct of the dealer and it is seen that the dealer is dragging on the proceedings and did not appear before the Assessing Officer nor filed their objections. Therefore, the plea raised by the petitioner lacks bona fide. For these reasons, this Court would have been fully justified in dismissing the writ petitions with exemplary costs. However, this Court does not proposes to do so, as it would not be in the interest of the Revenue. Though the Assessing Officer has been passing orders of assessment for the relevant years from the year 2014 onwards, the orders of assessment are only paper orders and the petitioner has been hoodwinking the third respondent by not cooperating in the assessment proceedings. Hence, this Court is of the view that an opportunity can be granted to the dealer, however, subject to a condition.

4. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 15% of the tax demanded for each of the assessment years within a period of six weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections within a period of two weeks therefrom. On receipt of the objections, the third respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed for each of the assessment years, the benefit of this order will not enure to the petitioner and the writ petitions will stand automatically dismissed giving liberty to the third respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition for each of the assessment years, the demand of the balance tax and entire penalty for the assessment years 2011-12 to 2014-15 shall remain stayed till fresh orders are passed by the third respondent. It is also made clear that no further indulgence will be granted to the petitioner. No costs. Consequently, the connected WMPs are closed.

s/d-
Assistant Registrar(CS-III)

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Sub-Assistant Registrar

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To
1.The Commercial Tax Officer, Group VII Enforcement (North), Greams
Road, Chennai-6.
2.The Joint Commissioner (CT), Enforcement-I, Chennai.
3.The State Tax Officer, Harur Assessment Circle, Harur.

+4 Ccs to Mr.M.Md.Ibrahim Ali, Advocate sr 30192.
+1 CC to Spl. Govt. Pleader sr 30956.

WP.Nos.10151 to 10154 of 2018&
WMP.Nos.12095 to 12098 of 2018

SSI(CO)
SP(16/05/2018)

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