In the High Court of Judicature at Madras

Dated : 18.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.9146 of 2018 & WMP.Nos.19057 & 10958 of 2018

M/s.R.S.Jewellers, rep.by its
Proprietor Mr.R.Arunmozhidevan ...Petitioner

Vs

The Commercial Tax Officer,
Mannargudi Circle, Mannargudi,
Thiruvarur District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN 33443868769/2015-16 dated 16.2.2018 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.Master Ganesh, GA

ORDER

Mr.Master Ganesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petition is before this Court challenging the assessment order passed by the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2015-16.

3. Though the petitioner received the revision notice dated 19.1.2018, they did not submit their objections. This ultimately resulted in the impugned order dated 16.2.2018. Since there was a mistake in the tax payer identification number in the assessment order dated 16.2.2018, an erratum was issued on 06.3.2018. Thus, the case on hand is not a case where there is a violation of the principles of natural justice, but a case where the petitioner did not avail the opportunity granted to them. However, considering the interest of the dealer and simultaneously protecting the interest of the Revenue, this

Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer, however, subject to a condition.

4. Accordingly, the writ petition stands disposed of with a direction to the petitioner to pay 15% of the tax demanded within a period of three 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 order as a show cause notice and submit their objections within a period of two weeks therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petition will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax and penalty for the assessment year 2015-16 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

The Commercial Tax Officer, Mannargudi Circle, Mannargudi, Thiruvarur District.

+1cc to Mr.S.Sivakumar, Advocate, SR.No.28741

+1cc to the Special Government Pleader SR.No.29015

WP.No.9146 of 2018 & WMP. Nos.10957 & 10958 of 2018

LRS(CO)

RRK(18/05/2018)