IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.Nos.7269 & 7270 of 2018 &
W.M.P.Nos.9032 to 9035 of 2018

M/s.Prakash Agencies
Rep. by its Proprietor-J.Suresh
No.1310, Chennai Salai
Lakshminarayana Puram
Panruti - 607 106
Cuddalore District .. Petitioner in both WPs

v.

The Commercial Tax Officer
Panruti (Rural) Circle
Panruti
Cuddalore District .. Respondent in both WPs

Prayer: W.P.No.7269 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in its impugned proceedings made in TIN 33834500629/2012-13, dated 25.07.2016, quash the same as illegal and contrary to the scheme of the Act.

Prayer: W.P.No.7270 of 2018 filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the respondent in its impugned proceedings made in TIN 33834500629/2015-16, dated 31.08.2016, quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.J.Prasanna Kumar

For Respondent : Ms.G.Dhanamadhri
Govt. Advocate (T)

COMMON ORDER

Ms.G.Dhanamadhri, learned Government Advocate (Tax) takes notice for the respondent. By consent, the main writ petitions are taken up for disposal at the admission stage itself.

2. The petitioner has filed the above writ petitions to issue a Writs of Certiorari to call for the records on the file of the respondent in its impugned proceedings dated 25.07.2016 and 31.08.2016 for the assessment years 2012-13 and 2015-16 respectively and to quash the same.

3. The learned counsel appearing for the petitioner submitted that the petitioner had not filed their reply to the notices sent by the respondent. Hence, an opportunity may be given to them to file their reply and in such an event, the respondent may be directed to decide the matter afresh.

4. Ms. G.Dhanamadhri, learned Government Advocate (Tax) appearing for the respondent submitted that since the petitioner has not challenged the impugned orders made on 25.07.2016 and 31.08.2016, the petitioner may be directed to pay 15% of the disputed tax as held in W.P.No.1280 of 2018, dated 22.01.2018.

5. In that view of the matter, the learned counsel appearing for the petitioner submitted that the petitioner is willing to pay 15% of the disputed tax, within a stipulated time.

6. In view of the submissions made by the learned counsel on either side, I direct the petitioner to pay the 15% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order and on payment of the 15% of the disputed tax, the impugned orders dated 25.07.2016 and 31.08.2016, for the assessment years 2012-13 and 2015-16 are set aside and the matters are remitted back to the respondent for fresh consideration. If the petitioner complies with the said condition, they will be entitled to treat the impugned orders as a show cause notices and submit their objections and on receipt of the same, the respondent is directed to decide the matter afresh, on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner. In the case of the petitioner failing to comply with the conditional order in paying 15% of the disputed tax, the benefit of this order will not enure to the petitioner.

With these observations, the writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

RJ

To

The Commercial Tax Officer
Panruti (Rural) Circle
Panruti
Cuddalore District

+ 2 ccs to Mr.J.Prasanna Kumar, Advocate Sr.23654
+ 1 cc to Mr.the Government Pleader SR.24382

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W.M.P.Nos.9032 to 9035 of 2018

SSV(CO)
EU(11/04/2018)