IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

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THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.6330 of 2018
and W.M.P.Nos.7882 & 7883 of 2018

M/s.Sri Sakthi Automobiles,
rep by its Proprietor - Sakthi
No.C-19, Athiradi Vinayagar Koil Street,
Vellore, Vellore District. .. Petitioner

Vs.

The Commercial Tax Officer,
Vellore (North) Circle,
Vellore, Vellore District. .. Respondent

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records of the respondent in the impugned proceedings in TIN/33144200745/2015-16 dated 30.12.2016 and quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.M.Hariharan,
Additional Government Pleader (Tax)

O R D E R

By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petition to issue a writ of certiorari to call for the records of the respondent dated 30.12.2016 in respect of the assessment year 2015-16 and to quash the same.

3.When the matter is taken up for hearing, the learned counsel for the petitioner submitted that in similar circumstances, this Court, by order dated 31.07.2017 in

W.P.Nos.16241 to 16243 of 2017 had passed the following order:

> "...
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> 8.Accordingly, the petitioner is directed to pay 15% of the dispute tax for each of the assessment years as computed in the impugned assessment orders, within a period of 15 days from the date of receipt of a copy of this order. If such payment is made, the petitioner is entitled to treat the impugned orders as show cause notices and submit their objections and appear before the authority by producing documents duly attested by the concerned officers, which shall be examined by the 1st respondent and the assessment be re-done on merits and in accordance with law.
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> 9.However, if the petitioner fails to comply with the conditional order in paying 15% of the disputed tax, the benefit of this order would not enure to the petitioner and the writ petitions would stand dismissed automatically, leaving it open to the petitioner to work out her remedies in accordance with law. The attachment of the property of the petitioner shall continue till further orders are passed in terms of the above direction."

4.The learned counsel for the petitioner further submitted that since the issue involved is similar to that in the Writ Petitions referred above, the present Writ Petition may also be disposed of in the same terms.

5.Mr.M.Hariharan, learned Additional Government Pleader taking notice for the respondent submitted that since the present Writ Petitions are identical to the other Writ Petitions referred above, the same order can be passed.

6.In view of the submissions made by the learned counsel on either side, following the order passed in the Writ Petitions in W.P.No.16241 to 16243 of 2017 dated 31.07.2017, the Writ Petition is disposed of by directing the petitioner to pay 15% of the disputed tax for the assessment year 2015-16 as computed in the impugned assessment order, within a period of 15 days from the date of receipt of a copy of this order.

7.If such payment is made, the petitioner is entitled to treat the impugned order as show cause notice and submit their objections and appear before the authority by producing documents duly attested by the concerned officers, which shall be examined by the 1st respondent and the assessment be re-done on merits and in accordance with law.

8.However, if the petitioner fails to comply with the conditional order in paying 15% of the disputed tax, the benefit of this order would not enure to the petitioner and the Writ Petition would stand dismissed automatically, leaving it open to the petitioner to work out her remedies in accordance with law. No costs. Consequently, the connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

The Commercial Tax Officer,
Vellore (North) Circle,
Vellore, Vellore District.

+1CC to Special Government Pleader (Taxes) in SR.NO. 22064

+1 CC to Mrs.R.Hemalatha, Advocate in SR.NO. 21609

W.P.No.6330 of 2018
and W.M.P.Nos.7882 & 7883 of 2018

SVI [CO]
MLT-28/03/2018