IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.04.2018
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.4369 to 4370 of 2018
&
W.M.P.Nos.5366 and 5367 of 2018

Tvl.Hira Exim
represented by its Proprietor Tvl. M.Althafur Rahman
Main Complex Near Old Petrol Bunk
No.215, High Road
Perambur, Gudiyatham-635 810
Vellore District ... Petitioner

vs.

1.The Commercial Tax Officer (Addl)
Gudiyatham (West)
Vellore District

2.The Sub-Registrar
Pernambut - 635 810
Vellore District ... Respondents

Prayer in W.P.No.4369 of 2018: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent dated 01.02.2016 in TIN No.33414343623/2014-15 and quash the same and consequently direct the 1st respondent to raise the attachment on the petitioner's property situated at No.518/3, Erthangal Hakeem 1st Street, Pernambut by suitably writing to the 2nd respondent.

Prayer in W.P.No.4370 of 2018: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the respondent dated 01.02.2016 in TIN No.33414343623/2015-16 and quash the same and consequently direct the 1st respondent to raise the attachment on the petitioner's property situated at No.518/3, Erthangal Hakeem 1st Street, Pernambut by suitably writing to the 2nd respondent.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.M.Hariharan
Additional Govt. Pleader

COMMON ORDER

Heard Mr.Adithya Reddy, learned counsel for the petitioner and Mr.Hariharan, learned Additional Government Pleader appearing for the respondents.

2. The petitioner has filed these writ petitions challenging the Assessment Orders under the provisions of the Tamil Nadu Value Added Tax, 2006 for the Assessment years 2014-15 and 2015-16. It is to be pointed that the impugned Assessment Orders are dated 01.02.2016. Therefore, the petitioner, even he had to file an appeal, the same will be dismissed as barred by limitation. Hence, this Court would have been fully justified in dismissing the writ petitions. However, since the interest of the revenue is also involved, this Court does not propose to proceed in that angle.

3. The petitioner's case is that he has not been served with the revision notice. This has been established to be factually incorrect by the Additional Government Pleader by producing copy of the original files which shows that the revision notice has been received on 14.12.2015. Though the petitioner received the notice, no objections were filed. After waiting for one year, the respondent has passed the impugned order. The impugned order was not received by the petitioner, but was returned back. Therefore, the respondent had taken steps to affix the impugned order in the door of the business place of the petitioner on 11.05.2016. Thus, the petitioner has been evading assessment proceedings and adopting dilatory tactics. If the writ petition had to be dismissed for this reason and then the question of recovery of the amount from the petitioner would be further jeopardized. That apart, I find that in the assessment order passed, there is mismatch between Annexures 1 and 2 details. Therefore, this Court is of the view that one more opportunity can be granted to the petitioner subject to certain conditions.



Accordingly, the writ petitions are disposed of by directing the petitioner to pay 20% of the disputed tax for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. On payment of the said amount, the petitioner is permitted to treat the impugned Assessment Orders as show-cause notice and submit their objections within 7 days thereafter. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. However, If the petitioner fails to comply with the above direction, the benefit of this order will not enure in favour of the petitioner and the writ petition would stand automatically dismissed without any further reference to this Court. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

gpa

To

1.The Commercial Tax Officer (Addl)
Gudiyatham (West)
Vellore District

2.The Sub-Registrar
Pernambut - 635 810,
Vellore District

+1cc to Mr.Athithya Reddy, Advocate SR.No.29902
+1cc to Special Government Pleader Sr.No.30068

sm:4.5.2018

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