In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.10442 of 2018 &
WMP.Nos.12400 & 12401 of 2018

Tvl.S.M.Agencies, rep.by
its Proprietor ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Palacode-636808. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the respondent in TIN No.33403291324/2013-14 dated 16.3.2015 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by an order of assessment dated 16.3.2015 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2013-14.

3. This Court would have been fully justified in dismissing the writ petition, as the prayer sought for by the petitioner is hopelessly barred by inordinate delay and laches. However, this Court does not propose to do so bearing in mind the interest of the Revenue. Considering the fact that the petitioner is a small dealer, this Court is inclined to grant one more opportunity to the petitioner to go before the Assessing Officer.

4. Accordingly, the writ petition is 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 entire penalty for the assessment year 2013-14 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer, Palacode-636808.

+1cc to Mr.ADITHYA REDDY, Advocate, S.R.No. 31405
+1cc to the Government Pleader, S.R.No.31439

WP.No.10442 of 2018 & WMP.
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SG(CO)
TR(16/05/2018)