In the High Court of Judicature at Madras

Dated : 10.1.2018

Coram

The Hon'ble Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.550 to 554 of 2018 &
W.M.P.Nos.665 to 679 of 2018

S.Rajendran ...Petitioner

Vs.

The Commercial Tax Officer,
Villupuram-I Assessment Circle,
Villupuram. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the respondent in its impugned proceedings made respectively in TIN No. 33234681767/2006-07, TIN No.33234681767/2007-08, TIN No. 33234681767/2008-09, TIN No.33234681767/2009-10 and TIN No. 33234681767/2010-11 dated 22.4.2016 and quash the same as illegal and arbitrary.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Ms.Dhana Madhri, GA

COMMON ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is before this Court challenging the orders of assessment for the years 2006-07 to 2010-11. The substantial part of the mistake lies with the dealer, as he did not respond to the revision notices dated 01.4.2016.

3. The respondent issued notices dated 01.4.2016 pointing out that on verification of the returns filed for the relevant years, it was seen that the petitioner had not filed the agreement copy for the work undertaken by him. Therefore, the petitioner was instructed to file the agreement copy immediately, failing which, the best of judgment revision orders would be passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006. 4. The petitioner, though received the notices, did not produce the agreement copies. Therefore, the respondent

completed the assessment and confirmed the proposal in the notices dated 01.4.2016. After more than one and half year, the petitioner has filed these writ petitions because the respondent issued attachment notice for attaching the petitioner's property. 5. These writ petitions should not have been entertained at the first instance, since the petitioner did not explain the gross delay in approaching this Court, especially, when the limitation prescribed for filing the appeals was over and no appeals could have been filed by the petitioner.

6. The learned counsel for the petitioner submits that it is true that the mistake has been committed by the dealer by not filing the objections. The petitioner is a dealer, who has been carrying on works contract for Government Departments, such as Local Bodies and the Block Department Officer of the concerned local body has given requisite certificates and made endorsement in the ledger entries and the petitioner may be granted one opportunity to go before the respondent and place those documents. The learned counsel for the petitioner has relied on the circular issued by the Principal Secretary/ Commissioner of Commercial Taxes in Circular No.54/ 2014 dated 14.11.2014 to substantiate his contention that M returns can be perused by the Assessing Officer while considering the claim for exemption.

7. On a perusal of the income and expenditure accounts filed by the petitioner under the Income Tax Act, 1961 for the relevant assessment years, it is seen that substantial portion of the work has been done by the petitioner for various Local Bodies and the petitioner has given the contract number and also mentioned about the departmental supply of materials wherever it has been given. It may be true that the petitioner did not produce the copy of the contract agreement. However, the petitioner having transacted business with the Governmental bodies, the respondent can accept any authenticated record given by the concerned authority, for whom, the work has been performed by the petitioner and this, in my view, would be sufficient to examine the correctness of the transactions reported by the petitioner in his turn over. To enable the petitioner to be entitled to such an opportunity, he should be put on terms.

8. Accordingly, the writ petitions are disposed of with a direction to the petitioner 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, submit his objections and appear before the respondent by producing documents duly attested by the concerned officers, which shall be examined by the respondent and the

assessment shall be redone on merits and in accordance with law. The petitioner is at liberty to rely upon Circular No.54/ 2014 dated 14.11.2014, when the assessment proceedings are being taken up for consideration. However, if the petitioner fails to comply with the conditional order in paying 15% of the disputed tax for each of the assessment years, 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 his 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. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To
The Commercial Tax Officer, Villupuram-I Assessment Circle, Villupuram.

+5 ccs to Ms.R.Hemalatha Advocate sr 1751
+1 cc to Special Govt Pleader Taxes sr 2427

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gj(co)
aa30/01/2018