In the High Court of Judicature at Madras

Dated : 08.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.207 of 2018 & WMP.Nos.283 & 284 of 2018

M/s.Sivam Agencies, rep.by its
Proprietrix D.Lokeswari ...Petitioner

Vs

The Deputy Commercial Tax Officer
(Main), Gudiyatham (East) Assessment
Circle, Gudiyatham, Vellore District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN : 33584246481/2014-15 dated 30.12.2016 and quash the same.

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

ORDER

Ms.G.Dhana Madhri, learned Government Advocate 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 a revised order of assessment passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

3. The petitioner alone has to be blamed because the petitioner did not file their objections to the revision notices dated 29.4.2016, 11.6.2016 and 30.8.2016 issued by the respondent. Therefore, the respondent cannot be found fault with for confirming the proposal in the said revision notices in the absence of any written objections.

4. One more serious mistake committed by the petitioner is that they did not avail the remedies under the said Act against the order of assessment and by now, even if an appeal is filed, it is time barred.

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5. The learned Government Advocate points out that there is no valid reason for filing this writ petition belatedly, especially after the appeal remedy has become time barred.

6. Considering the peculiar facts and circumstances, this Court is inclined to give an opportunity to the petitioner to go before the Assessing Officer, however, subject to a condition.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To
The Deputy Commercial Tax Officer (Main), Gudiyatham (East) Assessment
Circle, Gudiyatham, Vellore District.

+1 cc to M/s.R.Hemalatha Advocate sr 1235
+1 cc to Special Govt Pleader Taxes

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