IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 09.10.2018

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No. 20132 of 2018
in
W.M.P.Nos. 23606 & 23607 of 2018

M/s. Sayar Jewellers,
Represented by its Proprietor - D.Dharmichand,
No.120, Car Street,
Tiruvannamalai - 606 601,
Tiruvannamalai District. ..Petitioner

vs.

The Assistant Commissioner (ST),
Tiruvannamalai - 1 Circle,
Tiruvannamalai,
Tiruvannamalai
District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN:33064520501/2016-17 dated 23.11.2017 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar

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

O R D E R

This writ petition is filed challenging the order of assessment dated 23.11.2017, rejecting the petition filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006.

2. Heard both sides.

3.In respect of the assessment year 2016-17, the Assessing Officer issued a notice of proposal on 04.08.2017. The petitioner did not file any reply. Consequently, the Assessing Officer passed an order of assessment on 27.09.2017. In pursuant to the said order of assessment, the petitioner paid tax to the tune of Rs.51,061/- representing the reversal of ITC under Section 19(5)(a) of the TNVAT Act, 2006 and sought for dropping the penalty. The said request was rejected by the respondent through the impugned proceedings.

4. When the fact remains that the petitioner has not filed any reply to the original notice of proposal, this Court is not inclined to going to the submissions made by the petitioner in this Writ Petition on the merits as to how such penalty cannot be imposed on petitioner. It is for the petitioner to work out his remedy only before the next fact finding authority, viz., the first appellate authority.

5. Therefore, without expressing any view on the merits of the claim made by the petitioner against the imposition of penalty, this Writ Petition is disposed of with liberty to the petitioner to file an appeal before the first Appellate Authority against the order of assessment dated 27.09.2017, within a period of two weeks from the date of receipt of a copy of this order, after complying with all the necessary statutory requirements. If any such appeal is filed, the same shall be considered and decided, and pass orders on merits and in accordance with law by the said Appellate Authority without referring to the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sni

To

The Assistant Commissioner (ST),
Tiruvannamalai - 1 Circle,
Tiruvannamalai,
Tiruvannamalai District.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.69857
+1cc to the Government Pleader, S.R.No. 69765

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RSX(CO)

rrs 26/10/2018