IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.04.2018

Coram

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

Writ Petition No.10479 of 2018

and

W.M.P.No.12430 of 2018

Yes and Yes Construction,
rep. by its Partner,
D.Shanmugam ...Petitioner

Vs.

1. The Assistant Commissioner (ST)
Chithode Circle, C.T.Buildings,
Erode - 638 001.

2. The State Bank of India,
Erode (Main) Erode. ...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records on the file of the first respondent in TIN No.33526368193/2017-18/A3, dated 04.04.2018, served on the petitioners on 09.04.2018 and to quash the same.

For Petitioner : Mr.N.Inbarajan
For Respondent -1 : Mrs.G.Dhanamadhri
Government Advocate

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O R D E R

Heard Mr.N.Inbarajan, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate for the first respondent. In the light of the order, this Court proposes to pass, notice to the second respondent/Bank is dispensed with.

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2. The petitioner is aggrieved by the impugned notice, dated 04.04.2018, whereby, the petitioner has been directed to pay tax for the months of April, May and June, 2017.

3. The impugned order is challenged on the ground that the period of deemed assessment will come to end only on 31.10.2018, and before that, the impugned notice could not have been issued. The second ground raised is that, for the month of March, 2017, the petitioner has paid excess tax and to show the same, the learned counsel for the petitioner referred to the On line payment acknowledgment, dated 21.07.2017. It is submitted that the petitioner has remitted excess tax for the March, 2017, and therefore, has filed revised return for April, May, and June, 2017, and these revised returns are e-returns and they have been duly acknowledged by the Department. Therefore, it is submitted that, the impugned demand cannot be sustained.

4. In the written instructions given by the first respondent to the learned Special Government Pleader, (Taxes), Chennai, the contentions putforth by the petitioner have not been adverted to, except stating that the tax has not been paid, and therefore, Form-U attachment Notice has been issued.

5. This Court, having perused the material papers filed in the typed-set of papers, has seen that the petitioner has filed revised returns for all the four months and they have been duly acknowledged as all the revised returns are e-returns. Therefore, the first respondent is bound to consider the same and without considering the same, the bank attachment notice should not have been issued.

6. For the above reasons, the Writ Petition is allowed, the impugned attachment notice is set aside, with a direction to the first respondent to consider the petitioner's revised returns and afford an opportunity of personal hearing to the petitioner and assess the petitioner's turnover in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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-sd/-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Assistant Commissioner (ST)
   Chithode Circle, C.T.Buildings,
   Erode - 638 001.

2. The State Bank of India,
   Erode (Main) Erode.

+1 C.C. to The Special Govt.Pleader (Taxes) SR.NO. 32687

+1 C.C. to MR.N.Inbarajan Advocate SR.NO. 32172

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KAN (CO)

VS 16.05.2018

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