In the High Court of Judicature at Madras

Dated : 25.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10493 to 10496 of 2018
& WMP.Nos.12442 to 12449 of 2018

M/s.Premier Gem Enterprises, rep.
by its Proprietor K.Thirunavukkarasu ...Petitioner

Vs

The Assistant Commissioner (CT),
Chithode Assessment Circle, Erode. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the assessment orders passed by the respondent in proceedings TIN 33323062836/2011-12, 33323062836/2012-13, 33323062836/2013-14 and 33323062836/2014-15 dated 11.8.2016, quash the same and direct the respondent to redo the assessments after giving an opportunity to the petitioner to put forth their cases along with connected records.

For Petitioner : Mr.S.N.Kirubanandam for
Mr.K.R.Krishnan

For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.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 aggrieved by the action initiated by the respondent in attaching the petitioner's property for recovery of dues payable by the petitioner, which was initially a partnership firm.

3. Admittedly, the petitioner did not question the orders of assessment passed in the year 2016 immediately and has

approached this Court at this juncture only after the notices of attachment were issued.

4. The learned counsel appearing on behalf of the petitioner submits that the assessment orders were never served on the petitioner, as there was a change of address, which was intimated to the Department. Apart from that, he submits that due to an untoward incident, which had occurred subsequently on account of the road accident, the proprietor was confined to bed and was unable to move for quite some time.

5. Considering the nature of transactions done by the petitioner, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

6. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 15% of the tax demanded for each of the assessment years within a period of six 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 orders as show cause notices and submit their objections by appearing in person or through the authorized representative, 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 assessments in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed for any of the assessment years, the benefit of this order will not enure to the petitioner and the writ petitions 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 for each of the assessment years, the demand of the balance tax and entire penalty for the assessment years 2011-12 to 2014-15 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Deputy Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To,

1.The Assistant Commissioner(CT),
Chithode Assessment Circle,
Erode.

+1cc to Mr.K.R.Krishnan, Advocate, S.R.No.30602

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RRK(26/04/2018)