IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.5649 of 2018 &
W.M.P.Nos.6989 & 6990 of 2018

M/s. Karthikeyan Traders
Rep by its Proprietor-N.Madavan
No.113, Thiruvalluvar Street
Opp.Municipal Office
Vellore- 632 007
Vellore District. .. Petitioner

v.

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

Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari to call for the records of the respondent in its impugned proceedings made in TIN No. 33234246334/2014-15 dated 15.12.2016 and quash the same.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.Dhanamadhri
Government Advocate (T)

ORDER

The petitioner has filed the above Writ Petition to issue a writ of Certiorari to call for the records on the file of the respondent in its proceedings dated 15.12.2016 in respect of the assessment year 2014-15 and to quash the same.

2.1 The learned counsel appearing for the petitioner submitted that in similar circumstances, this Court, by order dated 31.07.2017 in W.P.Nos.16241 to 16243 of 2017 had passed the following order:

> "...
>
> 8.Accordingly, the petitioner is directed 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 and submit their objections and appear before the authority by producing documents duly attested by the concerned officers, which shall be examined by the 1st respondent and

the assessment be re-done on merits and in accordance with law.

9.However, if the petitioner fails to comply with the conditional order in paying 15% of the disputed tax, 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 her 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."

2.2 The learned counsel appearing for the petitioner further submitted that since the issue involved is similar to that in the Writ Petitions referred above, the present Writ Petition may also be disposed of in the same terms.

3. Ms.Dhanamadhri, learned Government Advocate (Tax) appearing for the respondent submitted that since the present Writ Petition is identical to the relief sought for in the Writ Petitions referred to above, the same order can be passed in this writ petition also.

4.In view of the submissions made by the learned counsel on either side, following the order passed in the Writ Petitions in W.P.No.16241 to 16243 of 2017 dated 31.07.2017, the Writ Petition is disposed of with the following directions:

(i) The petitioner shall pay 15% of the disputed tax for the assessment year 2014-15 as computed in the impugned assessment order dated 15.12.2016, within a period of 15 days from the date of receipt of a copy of this order.

(ii) If such payment is made, the petitioner is entitled to treat the impugned order dated 15.12.2016 as show cause notice and submit their objections and appear before the authority by producing documents duly attested by the concerned officer, which shall be examined by the respondent and the assessment be re-done on merits and in accordance with law.

(iii) In the case of the petitioner failing to comply with the conditional order in paying 15% of the disputed tax, the benefit of this order will not enure to the petitioner and the writ petition would stand dismissed automatically, leaving it open to the petitioner to work out their remedies in accordance with law.

No costs. Consequently, the connected miscellaneous petitions are closed.

21.03.2018

Index : Yes/No

Speaking Order/Non Speaking Order

Rj

To

The Deputy Commercial Tax Officer (Addl).
Gudiyatham (East) Assessment Circle
Gudiyatham
Vellore District.

M. DURAISWAMY,J.

Rj

W.P.No.5649 of 2018 &
W.M.P.Nos.6989 & 6990 of 2018

21.03.2018