In the High Court of Judicature at Madras

Dated : 18.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.1070 & 1071 of 2018
& WMP.Nos.1291 & 1292 of 2018

M/s.Murugan Pharmacy, rep.by
its Proprietor R.venkataraman ...Petitioner

Vs

The Commercial Tax Officer,
Arakkonam, Vellore District. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in its impugned proceedings made in TIN 33084300397/2013-14 and TIN 33084300397/2014-15, both dated 22.6.2017 and quash the same.

For Petitioner : Mrs.R.Hemalatha

For Respondent : Ms.G.Dhana Madhri, GA

COMMON ORDER

Ms.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, which is a registered dealer on the file of the respondent, is before this Court challenging the assessment orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2013-14 and 2014-15.

3. The petitioner was not diligent in submitting their reply to the revision notices and consequently, the Assessing Officer completed the assessments and passed orders dated 14.7.2016. The petitioner challenged the orders dated 14.7.2016 by filing W.P.Nos.35016 and 35017 of 2016 and this Court, after taking into consideration the facts and circumstances, as pleaded by the petitioner, disposed of the said writ petitions on 04.10.2016 by directing the petitioner to pay 15% of the disputed tax for each of the assessment years. It was further made clear that if the petitioner complies with the said condition, they would be entitled to treat the impugned

assessment orders as show cause notices and submit their objections within a period of 15 days therefrom.

4. The petitioner complied with the first limb of the directions by paying 15% of the disputed tax for each of the assessment years within the time stipulated. However, they did not comply with the second limb of the directions, as they did not submit their objections. It is seen that the Assessing Officer did not immediately pass an order, but afforded an opportunity of personal hearing. The petitioner did not cooperate with the Assessing Officer and sought for adjournment on more than two occasions. In spite of sufficient indulgence having been granted, since the petitioner did not file their objections, the impugned assessment orders have been passed. Therefore, there is absolutely no error in the decision making process.

5. As already stated, the petitioner was not diligent enough to take advantage of the directions issued by this Court in the earlier writ petitions. It is a case where the petitioner flouted the directions of this Court given in the earlier writ petitions partly. However considering the fact that the petitioner had already paid 15% of the disputed tax as directed by this Court in the earlier writ petitions, this Court is inclined to grant one more indulgence to the petitioner, however, subject to a condition.

6. Accordingly, the writ petitions stand disposed of by directing the petitioner to pay another 15% of the disputed tax for each of the assessment years within a period of four weeks from the date of receipt of a copy of this order. If the petitioner effects payment of another 15% of the disputed tax for each of the assessment years within the time permitted, they will be entitled to treat the impugned proceedings as show cause notices and will be granted 15 days' time therefrom to submit their objections. 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. Upon failure of the petitioner to comply with the above condition, the benefit of this order will not enure to the petitioner and the writ petitions shall stand automatically dismissed without further reference to this Court. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar( )

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer, Arakkonam, Vellore District.

+2cc to Mr.R.Hemalatha, Advocate, S.R.No.3924

+1cc to the Government Pleader, S.R.No.6491

WP.Nos.1070 & 1071 of 2018&
WMP.Nos.1291 & 1292 of 2018

SR(CO)
RRK(07/02/2018)