

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.4807 of 2018
and
W.M.P.No.5956 of 2018

Tvl.Manibhadra Bullion
represented by its Proprietorship,
82, Uppukinar Lane,
Big Bazaar Street,
Coimbatore - 641 001. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Oppanakkara Street Circle,
Coimbatore-18. ... Respondent

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent herein in TIN 33061862410/2011-12 dated 28.04.2015 an quash the same as illegal and as having been passed in violation of principles laid down by the Honourable Supreme Court of India in the case of Steel Authority of India Ltd. Vs. STO Rourkela-I Circle (reported in (2008) 16 VST 181 (SC)) and further direct the respondent to refund the arrears amount extracted through the petitioner's banker to a tune of Rs.25,83,954/-.

For Petitioner: Mr.A.Ravichandran

For Respondent : Mr.M.Hariharan,
Additional Government Pleader (T)

O R D E R

The petitioner is aggrieved against the order of assessment passed in respect of the assessment year 2011-2012 dated 28.04.2015.

2. Mr.M.Hariharan, learned Additional Government Pleader (T) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal.

3. Though several grounds are raised by the petitioner questioning the assessment order impugned in this writ petition,

this Court is not inclined to entertain the writ petition mainly on two reasons as follows:

(a) Admittedly, the impugned order of assessment was passed after issuing notice of proposal and considering the objections raised by the petitioner. The Assessing authority has passed a detailed order and therefore, if the petitioner is aggrieved against such order, they have to file a statutory appeal before the First Appellate Authority.

(b) Secondly, the very writ petition itself is filed after nearly a period of three years from the date of the impugned order. Therefore, on the ground of laches also the writ petition cannot be entertained.

4. However, as it is stated by the learned counsel for the petitioner that the impugned demand has already been realised from the petitioner from their bank account, it is for them to work out their remedy before the First Appellate Authority by way of filing a regular appeal.

5. Accordingly, the writ petition is disposed of without expressing any view on the merits of the matter only with liberty to the petitioner to file an appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the First Appellate Authority shall consider the same on its own merits and pass orders in accordance with law without reference to the period of limitation, if any, since it is stated that the amount demanded in the impugned order of assessment has already been realised by the Department. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

vsi

To

The Assistant Commissioner (CT),
Oppanakkara Street Circle,
Coimbatore-18.

+1 CC to Mr.A. Ravichandran, Advocate sr 16788.

+1 CC to Govt. Pleader sr 17488.

W.P.No.4807 of 2018

SP(12/03/2018)