IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.7782 to 7785 of 2018
&
W.M.P.Nos.9692 to 9697 of 2018

M/s.International Coal Agency,
Rep. by its Proprietor – C. Thirumoorthy
No.501, Periyar Nagar,
Erode, Erode District. .. Petitioner in all W.Ps'

Versus

1.The Assistant Commissioner (CT),
Brough Road Assessment Circle,
Erode, Erode District.

2.The Appellate Deputy Commissioner (CT)
Erode, Erode District. .. Respondents in all W.Ps'

Prayers in W.P.Nos.7782 & 7783 of 2018: These Writ Petitions are filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records on the file of the 1st respondent in his impugned proceedings made in TIN 33243001285/2012-13 dated 16.10.2017, TIN 33243001285/2013-14 dated 17.10.2017, quash the same as illegal and arbitrary and pass such further or other orders.

Prayers in W.P.Nos.7784 & 7785 of 2018: These Writ Petitions are filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, calling for the records on the file of the 2nd respondent in his impugned proceedings made in M.P.Nos.18 and 19 of 2018 dated 26.02.2018 quash the same as illegal and arbitrary and pass such further or other orders.

For Petitioner : Mr.S.Rajasekar

For Respondent : Ms.G.Dhana Madhri
(in all W.Ps') Government Advocate

COMMON ORDER

Heard Mr.S.Rajasekar, learned counsel appearing for the petitioner and Ms.G.Dhana Madhri, learned Government Advocate appearing for the respondent. With the consent on either side, the writ petitions are taken up for disposal.

2. The petitioner is before this Court challenging the orders of assessment as well as the orders passed by the Appellate Authority dismissing the petitioner's appeal as time barred. Learned counsel for the petitioner fairly submits that the Appellate Authority's order dated 26.02.2018, cannot be faulted, as the appeal was presented beyond the condonable period. However, the learned counsel for the petitioner submitted that one more opportunity may be granted to the petitioner to go before the Assessing Officer to put forth their contentions, as according to the petitioner, they have got an excellent case on merits.

3. In this regard, the learned counsel for the petitioner has drawn the attention of this Court to the grounds of appeal filed before the Appellate Authority and the various decisions, on which the petitioner had placed reliance. Under normal circumstances, this Court would have dismissed the writ petitions as not maintainable. However, if such course is adopted, the petitioner would have no other remedy, equally the interest of revenue will also be affected, since the Assessing Officer has not been able to recover any part of the tax, though the assessments were completed long back. Therefore, considering the peculiar facts and circumstances of this case, this Court is inclined to grant one more opportunity to the petitioner subject to certain conditions. It is seen that at the time when the petitioner preferred an appeal 25% of the disputed tax has been paid.

4. In the light of the same, the writ petitions shall stand disposed of, by directing the petitioner to pay a further 10% of the disputed tax for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. If the condition is complied with, the petitioner is entitled to treat the proceedings dated 16.10.2017, as show cause notices and submit their submissions within a period of two weeks therefrom. On receipt of the objections, the first respondent/the Assessing Office shall consider the same, affording an opportunity of personal hearing and redo the assessment in accordance with law. In the event, the petitioner does not comply with the conditions imposed by this Court within the time stipulated, the benefit of this order will enure to the petitioner and the writ petitions will stand automatically

dismissed without further reference to this Court. No costs. Consequently, connected miscellaneous petitions shall stand closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

vsm

To

1.The Assistant Commissioner (CT),
Brough Road Assessment Circle,
Erode, Erode District.

2.The Appellate Deputy Commissioner (CT)
Erode, Erode District.

+4cc to Mr.S.Raja Sekar, Advocate SR.No.25226
+1cc to Special Government Pleader(Taxes) SR.No.25305

W.P.Nos.7782 to 7785 of 2018

KAN(CO)
GN(16/04/2018)