IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.Nos.6823 & 6824 of 2018
and W.M.P.Nos.8448 & 8449 of 2018

Tvl.Sri Vishnu Automobiles,
rep by its Proprietor J.Manivannan
previously at No.75/10-D,
Nethaji By Pass Road,
Dharmapuri,
Now at No.44-B, Pachiyamman Koil Opposite,
Dharmapuri – 636 705. .. Petitioner in both W.Ps

Vs.

The Deputy Commercial Tax Officer,
Dharmapuri Assessment Circle,
Dharmapuri. .. Respondent in both W.Ps

Petitions filed under Article 226 of the Constitution of India to issue Writs of Certiorari calling for the records of the respondent in TIN/33893285283/2014-15 & 2015-16 dated 31.05.2017 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner (in both W.Ps) : Mr.R.Senniappan

For Respondent (in both W.Ps) : Mrs.G.Dhanamadhri, Government Advocate (Tax)

C O M M O N O R D E R

By consent, the Writ Petitions are taken up for final disposal at the admission stage itself.

2.The petitioner has filed the above Writ Petitions to issue writs of Certiorari calling for the records of the respondent dated 31.05.2017 for the assessment years 2014-15 & 2015-16 and to quash the same.

3.When the matter is taken up for hearing, the learned counsel 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."

4.The learned counsel for the petitioner submitted that the issue involved in the present Writ Petitions are similar and the same order can be passed in these Writ Petitions also.

5.Mrs.G.Dhanamadhri, learned Government Advocate taking notice for the respondent submitted that since the present Writ Petitions are identical to the other Writ Petitions referred above, the same order can be passed.

6.In view of the submissions made by the learned counsel on either side, the Writ Petitions are allowed, directing the petitioner to pay 15% of the disputed 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. 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. The respondent is directed to decide the matter and pass orders in accordance with law within a period of two weeks from the date of receipt of a copy of this order, after giving due opportunity of personal hearing to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/--
Assistant Registrar

//True Copy//

Sub Assistant Registrar

va

To

The Deputy Commercial Tax Officer,
Dharmapuri Assessment Circle,
Dharmapuri.

+1cc to Mr.R.Senniappan, Advocate Sr.No.22943
+1cc to Special Government Pleader Sr.no.22996

sm:27.3.2018

W.P.Nos.6823 & 6824 of 2018
and W.M.P.Nos.8448 & 8449 of 2018