In the High Court of Judicature at Madras

Dated : 06.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10825 & 10826 of 2018
& WMP.Nos.12767 & 12768 of 2018

D.Suresh Babu, Proprietor
Sri Rama Medical ...Petitioner

Vs

The Deputy Commercial Tax Officer,
Office of the Assistant Commissioner,
Palacode Assessment Circle. ...Respondent

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs Certiorari to call for the records on the file of the respondent issued the order in TIN.33183290087, a demand notice in Form O Under Rules 8(4), 8 (6), 14(18), 14(21) and 14(22) and Form RR under Rule 16(5) of Tamil Nadu Value Added Tax Act 2006 for the assessment years 2014-15 and 2015-2016 dated 28.11.2016 and quash the same as being violative of principles of natural justice, contrary to the provisions of the Tamil Nadu Value Added Tax Act 2006 and hence invalid and illegal.

For Petitioner : Mr.G.M.Anantha Kumar
For Respondent : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.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 is before this Court challenging the assessment orders under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years 2014-15 and 2015-16 on the ground that they are in violation of the principles of natural justice.

3. The learned Government Advocate has placed before this Court written instructions given by the respondent dated 30.5.2018.

4. From the written instructions given by the respondent dated 30.5.2018, it is seen that the pre-assessment notices were received by the petitioner, but they did not file their

objections and after the assessment orders were passed, the petitioner approached the respondent stating that they misplaced the assessment orders and obtained fresh copies and filed these writ petitions.

5. Considering the facts and circumstances of the case and the conduct of the petitioner, this Court is not inclined to interfere with the impugned orders. However, this Court does not propose to foreclose the petitioner's right to submit his objection, but would grant an opportunity to the petitioner, however, subject to a condition.

6. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded in each of the impugned orders within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned orders as show cause notices and submit his objections within a period of two weeks therefrom. 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. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petitions will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax and penalty for the assessment years from 2014-15 and 2015-16 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Deputy Commercial Tax Officer, Office of the Assistant Commissioner,
Palacode Assessment Circle.

+1cc to Mr.G.M.Anantha Kumar, Advocate sr.no.35925
+1cc to Special Government Pleader in sr.no.35536

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nr 13/06/2018