IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.9861 to 9863 of 2018
and W.M.P.Nos.11786 to 11788 of 2018

Hayathbasha,
Managing Partner,
M/s.K.A.Abdul Muthalif Groceries,
1/182, Bazaar Street,
V.Kolathur Post, Perambalur. ... Petitioner in all W.Ps.

Vs.

The Assistant Commissioner (CT),
Ariyalur Circle, Ariyalur. ... Respondent in all W.Ps.

Prayer in W.P.Nos.9861 & 9862 of 2018 : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the respondent in TIN : 33913600037/2007-08 & 2008-09 respectively and quash the orders dated 27.02.2017 passed therein.

Prayer in W.P.No.9863 of 2018 : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the respondent in TIN : 33913600037/2009-10 and consequential distraint order R.C.1013/2017 A3 and quash the order dated 27.02.2017 and the order dated 31.01.2018 passed therein.

For Petitioner : Mrs.Hema Muralikrishnan
(in all W.Ps.)

For Respondent : Mr.M.Hariharan,
(in all W.Ps.) Additional Government Pleader

C O M M O N O R D E R

Heard Mrs.Hema Muralikrishnan, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondent. With consent on either side, these writ petitions are taken for final disposal.

2. The petitioner has filed these writ petitions challenging the assessment orders dated 27.02.2017, for the assessment years 2007-08, 2008-09 and 2009-10 and the consequential distraint order dated 31.01.2018, directing the petitioner to pay the tax and penalty for all the three assessment years being a sum of Rs.1,87,570/-.

3. The learned counsel for the petitioner submitted that the petitioner, which is a partnership concern had been dissolved and they had also surrendered the original registration certificate to the respondent, which was received in the office of the respondent on 09.04.2015. Therefore, it is submitted that the petitioner having paid the entire tax liability may be permitted to agitate the matter before the appellate authority by filing an appeal for which time limit has already expired.

4. Though the learned counsel for the petitioner submits that the entire tax has been paid, from the distraint order dated 31.01.2018, it is seen that tax of Rs.13,769/- for the assessment year 2007-08, Rs.59,471/- for the assessment year 2008-09 and Rs.43,922/- for the assessment year 2009-10 is due and payable apart from penalties for all the three assessment years.

5. In the absence of proof to show that the petitioner has paid the tax for all the three assessment years, this Court is unable to accept the contention of the learned counsel for the petitioner. However, since the petitioner claims that they have stopped business activities and surrendered the registration certificate, this Court is inclined to grant one more opportunity to the petitioner to file appeal before the appellate authority subject to condition.

6. Accordingly, these writ petitions are disposed of with an observation that if the petitioner has not paid the tax demanded for the three assessment years, they shall do so within a period of fifteen days' from the date of receipt of a copy of this order. After remitting the entire tax liability for all the three years, the petitioner is granted fifteen days' time to file appeal before the appellate authority and is the same is done, the appellant authority shall consider the appeal on merits and in accordance with law without rejecting the same on the ground of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Deputy Registrar

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner (CT),
Ariyalur Circle, Ariyalur.

+1cc to Mr.B.Raveendran, Advocate sr.no.29717
+1cc to Special Government Pleader in sr.no.30073

W.P.Nos.9861 to 9863 of 2018

nr 15/05/2018