In the High Court of Judicature at Madras

Dated : 04.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.11894 to 11900 of 2018 &
WMP.Nos.13889 to 13895 of 2018

M/s.Karthuri Traders, rep.by
its Proprietor T.V.Murugesan ...Petitioner in all WPS

Vs

1.The Commercial Tax Officer,
Group VII Enforcement (North),
Greams Road, Chennai-6.

2.The Joint Commissioner (CT),
Enforcement - I, Chennai.

3.The State Tax Officer, Harur
Assessment Circle, Harur. ...Respondents in all WPS

Common Prayer: PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the records of the third respondent in his proceedings respectively in TIN No.33853340110/ 2007-08, TIN No.33853340110/2008-09, TIN No.33853340110/2009-10, TIN No.33853340110/2011-12, TIN No.33853340110/2012-13, TIN No. 33853340110/2013-14 and TIN No.33853340110/2014-15, quash the orders dated 28.3.2018 received by the petitioner on 12.4.2018 and direct the respondents to follow the procedure contemplated under the Act by giving personal hearing etc.

For Petitioner in all WPs : Mr.M.Md.Ibrahim Ali
For Respondents in all Wps: Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both.

2. The learned Government Advocate appearing for the respondents has vehemently opposed entertaining of these writ petitions before this Court pointing out that this is the third

time the petitioner has approached this Court challenging the assessment orders for some of the years.

3. On perusal of the relevant documents filed in the typed set of papers, this Court finds that earlier, the petitioner filed W.P.No.17735 of 2014 challenging the findings recorded by the Inspecting Authority pursuant to the surprise inspection conducted in the petitioner's place of business between 18.6.2014 and 21.6.2014. Ultimately, this Court disposed of the said writ petition on 26.7.2016 leaving it open to the petitioner to canvass all the issues including the jurisdictional issue before the Assessing Officer. Subsequently, the notice dated 28.12.2016 was issued to the petitioner proposing to revise the assessment for the year 2007-08.

4. However, instead of filing objections, the petitioner again filed W.P. No.16346 of 2017 before this Court questioning the jurisdiction of the Authority to issue such a notice. However, this Court did not accept the submissions made by the petitioner, but only directed the petitioner to canvass all the issues before the Authority concerned and ultimately dismissed W.P.No.16346 of 2017 on 29.6.2017. Thereafter, the Assessing Officer issued the notice 13.3.2018 for personal hearing. Again, the petitioner appeared to have not cooperated with the assessment proceedings and gave a letter seeking extension of time on the alleged ground that the documents were destroyed in the floods during December 2015.

5. This Court finds that such a reason was never raised in the earlier proceedings, more particularly in the earlier two writ petitions and it is for the first time the petitioner has stated such a reason. Be that as it may, the Assessing Officer granted sufficient time, which the petitioner failed to utilize.

6. The learned counsel for the petitioner now submits that the impugned assessment orders are time barred.

7. Such a plea, which touches upon the jurisdiction of the Authority, was left open to be raised before the Competent Authority in the earlier writ petitions. Therefore, this Court is not inclined to entertain these writ petitions on the said ground. For the above reasons, there are no grounds to interfere with the impugned assessment orders.

8. Accordingly, the writ petitions are dismissed. No costs. Consequently, the connected WMPs are also dismissed.

9. On a perusal of the impugned assessment orders, this Court finds that since the petitioner is dragging on the proceedings without filing their objections, the Assessing Officer finalized the assessments. However, since the assessments pertain to the years from 2007-08, this Court is inclined to grant one opportunity to the petitioner to go before the Assessing Officer.

10. Accordingly, the petitioner is permitted to treat the impugned assessment orders as show cause notices and submit their objections within a period of 10 days from the date of

receipt of a copy of this order. It is open to the petitioner to canvass all the points including the question of jurisdiction as pleaded before this Court. On receipt of the objections, the third respondent shall afford an opportunity of personal hearing to the petitioner and pass appropriate orders on merits and in accordance with law. If the petitioner does not avail this opportunity granted to them by this order within the time stipulated, the benefit of this order will not enure to the petitioner and it is open to the Assessing Officer to initiate proceedings to recover the entire tax and penalty in pursuance of the impugned assessment orders.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

RS

To

1.The Commercial Tax Officer,
Group VII Enforcement (North),
Greams Road, Chennai-6.

2.The Joint Commissioner (CT),
Enforcement - I, Chennai.

3.The State Tax Officer,
Harur Assessment Circle,
Harur.

+7cc to Mr.Md.Ibrahum Ali, Advocate SR.No.34518
+1cc to Special Government Pleader(Taxes) SR.No.34773

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GN(13/06/2018)