In the High Court of Judicature at Madras

Dated : 04.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.11915 to 11918 of 2018
& WMP.Nos.13904 to 13907 of 2018

M/s.Sri Raghavendra Builders rep.by
its Partner Mr.A.Suriya Narayanan ...Petitioner in all WPs

Vs

The Commercial Tax Officer, Perambur
Assessment Circle, Chennai. ...Respondent in all WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent respectively in TIN/33951044841/2012-13, TIN/33951044841/2013-14, TIN/ 33951044841/2014-15 and TIN/33951044841/2015-16, all dated 02.1.2018 and quash the same as arbitrary and illegal.

For Petitioner in all WPs : Mr.P.R.Kumar
For Respondent in all WPs : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the revision of assessment made by the respondent for the years 2012-13 to 2015-16.

3. Admittedly, the petitioner did not question the orders of assessment passed in January 2018 immediately. The Statute provides for an appeal to be filed by the dealer in case they are aggrieved by an orders of assessment. The Statute also stipulates a period of limitation, within which, such appeal has to be filed. The petitioner miserably failed to avail such an opportunity and at this juncture, the petitioner cannot file an appeal. Even if it is filed, it will be dismissed as barred by limitation.

4. The petitioner is before this Court accepting the fact

that they failed to file objections to the revision notice dated 23.11.2017 due to poor health conditions of the partner. In the affidavit filed in support of these writ petitions, the petitioner stated that they closed down their business during the year 2016 and that the non filing of the reply to the revision notices is neither willful nor wanton. The petitioner also seeks certain details with regard to quantification of the purchase omission.

5. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer.

6. Considering the said submission, this Court is of the view that one opportunity can be granted to the petitioner, however, subject to a condition.

7. 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 their 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 2012-13 to 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 VI)

//True Copy//

Sub Assistant Registrar

rs

To
The Commercial Tax Officer (CT),
Perambur Assessment Circle, Chennai.

+4 ccs to Mr.P.R.Kumar Advocate sr 34877
+1 cc to Special Govt Pleader sr 34772

WP.Nos.11915 to 11918 of 2018&
WMP.Nos.13904 to 13907 of 2018

aa13/06/2018