IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.24398 of 2018
and
WMP No.28409 of 2018

M/s.Sri Ranga Jewellers
Rep. by its Proprietrix
P.S.R.Sathiyamoorthy
No.31, Rajaji Street, Panruti Town,
Cuddalore District - 607 106.

..Petitioner

Vs.

The Assistant Commissioner (State Tax)
Panruti Town
Cuddalore District - 607 106.

..Respondent

Writ petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, to call for the records of the respondent in TIN 33884480765/2016-2017 dated 01.06.2018 and consequential letter dated 31.08.2018 in Na.Ka.A3/877/2018 and quash the same as contrary to the mandatory provisions of the Tamil Nadu Value Added Tax, 2006, apart from being in violation of principles of natural justice.

For Petitioner : Mr.P.K.Annankumar
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order of assessment dated 01.06.2018 passed in respect of the assessment year 2016-2017.

3. Heard the learned counsel for the petitioner, learned Government Advocate (Tax) for the respondent and perused the materials placed before this Court.

4. It is seen that before passing the order of assessment, the petitioner was issued with a notice of proposal dated 29.01.2018. It is further seen that the said notice was served on the petitioner on 03.02.2018 and thereafter, another notice was served on 22.03.2018 through the registered post, indicating the date of personal hearing. However, it is seen that the petitioner neither filed their reply nor filed any documents viz., Form WW before the Assessing Officer. Therefore, the Assessing Officer left with no other option except to pass the impugned order of assessment. When an opportunity is given to the petitioner to file their reply, they have not chosen to utilise the same. Therefore, this Court, is not inclined to entertain the present writ petition, merely, because the petitioner was not in station at the time of serving the notice of proposal. Atleast the petitioner should have gone before the Assessing Officer and sought for further time, which has not been done in this case.

5. Therefore, this Court is of the view that all the factual contentions raised before this Court in this writ petition can be raised before the Appellate Authority, by filing a statutory appeal, since such authority is also a fact finding authority. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file a statutory appeal before the Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed before the concerned Appellate Authority, the same shall be considered and orders shall be passed on merits and in accordance with law, without reference to the period of limitation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mk

To

The Assistant Commissioner (State Tax)
Panruti Town
Cuddalore District - 607 106.

+1cc to Mr.K.Jayachandran, Advocate, S.R.No.64104

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.64196

+1cc to Spl the Government Pleader, S.R.No.64264

W.P.No.24398 of 2018

SR(CO)
GSP(03/10/2018)