In the High Court of Judicature at Madras

Dated : 07.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.2632 of 2018 & WMP.Nos.3260 & 3261 of 2018

Tvl.Nandhu Trading, rep.by
its Proprietor Karpagam ...Petitioner

Vs

1.The Assistant Commissioner (CT),
North Circle, Tirupur.

2.The Branch Manager, Indian Bank,
Tirupur Main Branch, No.8, Court
Street, Tiruppur. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in the impugned proceedings made in TIN. 33586337219/2015-16 dated 13.11.2017 pertaining to assessment year 2015-16, quash the same and direct the 1st respondent to lift the order of attachment made in Savings Bank Account No.6170413690, Indian Bank, Tiruppur Main Branch of the petitioner on 11.1.2018 pursuant to impugned notice in Rc.No.33586337219/2015-16/A3 dated 10.1.2018 on the file of 2nd respondent.

For Petitioner : Ms.K.C.Aarthi
For Respondent-1 : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the first respondent. In view of the nature of relief this Court proposes to grant, the writ petition itself is taken up for final disposal without ordering notice to the second respondent.

2. The petitioner, which is a registered dealer on the file of the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, is aggrieved by the impugned assessment order dated 13.11.2017 for the year 2015-16.

3. The petitioner cannot contend that the impugned order has been passed in violation of the principles of natural justice, since the petitioner did not avail the opportunity granted to file their objections, though the petitioner was communicated with the notice dated 13.10.2017 by registered post as well as through e-mail.

4. In the affidavit filed in support of this writ petition, the petitioner blamed their Sales Tax Practitioner, who was taking care of the matter, alleging that he did not intimate the petitioner about the receipt of the notice and the contents communicated therewith. It is further stated that the proprietor of the petitioner is a senior citizen and was not correctly advised as to how to proceed with the matter. Hence, it is further submitted that if one more opportunity is granted, the petitioner will go before the Assessing Officer and put forth their contention to justify that there is no case for revising the returns.

5. Considering the submissions made by the learned counsel for the petitioner and taking note of the objections made by the learned Government Advocate, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

6. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. On remittance of 15% of the disputed tax, the attachment of the petitioner's bank account shall be lifted forthwith. No costs. Consequently, the above WMPs are closed.



Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

RS

To

1.The Assistant Commissioner (CT),
North Circle, Tirupur.

2.The Branch Manager, Indian Bank,
Tirupur Main Branch, No.8, Court
Street, Tiruppur.

+ 1 cc to the Special Government Pleader SR.10379
+ 1 cc to Mr. K. Venkatesh, Advocate Sr.9535

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KK(CO)
EU(27/02/2018)