In the High Court of Judicature at Madras

Dated : 11.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.13901 of 2018 &
WMP.Nos.16434 & 16435 of 2018

M/s.Kumar Agencies, rep.
By its Partner A.Munusami ...Petitioner

Vs

The Commercial Tax Officer,
Tiruvannamalai II Circle,
Tiruvannamalai. Tiruvannamalai
District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.336846612877/ 2012-13 dated 02.1.2015 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition is taken up for final disposal.

2. This Court would have been well justified in dismissing the writ petition, as the impugned order is dated 02.1.2015. Even if the petitioner files an appeal, as on date, the appeal is liable to be dismissed as it is filed beyond the period prescribed by the Statute. However, this Court finds that though the impugned order has been passed on 02.1.2015, it has remained as a paper order and that the respondent has not been able to recover the tax as quantified in the impugned assessment order. Thus, balancing the interest of the Revenue and the interest of the dealer, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

3. Accordingly, the writ petition stands disposed of with a direction to the petitioner to pay 15% of the tax demanded 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 order as a show cause notice 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 assessment 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 petition 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 for the assessment year 2012-13 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMPs are closed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

The Commercial Tax Officer, Tiruvannamalai II Circle,
Tiruvannamalai. Tiruvannamalai District.

+1 CC to Govt. Pleader(T) sr 36744.
+1 CC to Ms.R. Hemalatha, Advocate sr 36377.

WP.No.13901 of 2018 & WMP.
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SP(21/06/2018)