

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.13958 of 2018
and
W.M.P.No.16488 of 2018

Tvl.PSP Textile,
No:46, Santhose Tower,
SKC Main Road,
Erode - 638 001.

.. Petitioner

Versus

1. The Appellate Deputy Commissioner (C.T),
Erode.
2. The Assistant Commissioner (ST),
Brought Road Circle,
Erode.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the impugned ex-parte proceedings in M.P.No.36/18, dated 04.04.2018 and to quash the ex-parte order passed in the said proceedings by the first respondent and further direct second respondent to pass orders in accordance with law, after granting an opportunity of being heard.

[Prayer amended as per order by this Court, dated 20.06.2018 in WMP.No.17656/2018 in WP.No.13958/2018]

For Petitioner: Mr.U.Chandramouli

For Respondents: Mrs.G.Dhanamadhri
Government Advocate

ORDER

Heard Mr.U.Chandramouli, learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate appearing for the respondents and perused the materials on record including the parawise instructions given by the respondents vide communication dated 29.06.2018, addressed to

the Commissioner of State Taxes.

2. The petitioner is aggrieved by the order passed by the appellate authority, namely the first respondent dismissing the petitioner's application for condonation of delay in filing the appeal. The petitioner also seeks for a consequential direction to set aside the ex-parte assessment proceeding dated 17.01.2018. Under normal circumstances, this Court would have dismissed the writ petition, since there can be no error in the order passed by the first respondent, as he cannot entertain the petition beyond the condonable period. However, considering the peculiar facts and circumstances of the case and taking note of the fact that the petitioner has paid 25% of the tax demanded, namely Rs.29,400/- by online on 04.04.2018, which has been admitted by the second respondent in the parawise instruction, this Court is inclined to grant one more opportunity to the petitioner.

4. Accordingly, the writ petition is allowed and the order passed by the first respondent in M.P.No.36 of 2018 is set aside and the matter is remanded to the second respondent for fresh consideration. The petitioner is directed to treat the Assessment Order dated 17.01.2018 as show-cause notice and submit their objections to the same, within a period of 15 days from the date of receipt of a copy of this order. On receipt of the objections, the second respondent shall afford an opportunity of personal hearing to the authorized representative of the petitioner and redo the assessment in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

gpa/msrm

To

1. The Appellate Deputy Commissioner (C.T),
Erode.
2. The Assistant Commissioner (ST),
Brought Road Circle,
Erode.

+1 CC to Mr.C. Subramaniam, Advocate sr 47943.
+1 CC to Spl. Govt. Pleader(T) sr 48138.
+1 CC to Mr.C. Subramaniam, Advocate sr 47943(13/08/2018)

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SP(26/07/2018)



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