In the High Court of Judicature at Madras

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.14477 & 14478 of 2018
& WMP.Nos.17086 to 17088 of 2018

M.Jayachandran, Works Contractor ...Petitioner in both WPs

Vs

The Commercial Tax Officer, Villupuram-1
Circle, Villupuram,
Villupuram District. ...Respondent in both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the respondent in his impugned proceedings made respectively in TIN 33594681860/2008-09 and TIN 33594681860/2013-14, both dated 31.10.2016 and quash the same as illegal and contrary to the Scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

For Respondent : 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 before this Court challenging the orders of assessment for the years 2008-09 and 2013-14. The substantial part of the mistake lies with the dealer, as he did not respond to the revision notices dated 13.8.2014 and 06.9.2016.

3. The respondent issued the revision notices dated 13.8.2014 and 06.9.2016, pointing out that the petitioner did not file the monthly returns for both the assessment years 2008-09 and 2013-14 and that on verification of the web report, it was found that the petitioner effected purchases during the relevant assessment years. The petitioner, though received the said notices, did not respond to the same. Therefore, the

respondent completed the assessments by confirming the proposals in the revision notices dated 13.8.2014 and 06.9.2016 and also imposed penalty.

4. It is seen that the impugned orders are dated 31.10.2016. After more than 1½ years, the petitioner has filed these writ petitions. These writ petitions should not have been entertained at the first instance, since the petitioner did not explain the gross delay in approaching this Court, especially, when the limitation prescribed for filing the appeals was over and that as of now, no appeal could have been filed by the petitioner.

5. The learned counsel for the petitioner submits that it is true that a mistake has been committed by the dealer in not responding to the revision notices and that the petitioner may be granted one opportunity to go before the respondent and respond to the revision notices.

6. It is further seen that though the impugned orders have been passed on 31.10.2016, the respondent cannot recover even a single penny in pursuance of the impugned orders, more particularly for the assessment year 2008-09 and that the impugned orders remain paper orders. Hence, this Court is of the considered view that the petitioner can be granted one opportunity to go before the respondent, however, subject to a condition.

7. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 25% of the tax demanded for each of the assessment years as computed in the impugned assessment orders, within a period of 15 days from the date of receipt of a copy of this order. If such payment is made, the petitioner is entitled to treat the impugned orders as show cause notices and submit his objections. On receipt of the objections, the respondent shall redo the assessments on merits and in accordance with law. It is made clear that if the petitioner fails to comply with the said conditional order, the benefit of this order would not enure to the petitioner and the writ petitions would stand dismissed automatically without any further reference to this Court. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

RS

To

The Commercial Tax Officer, Villupuram-1 Circle, Villupuram, Villupuram District.

+1cc to the Special Government Pleader Sr.38353
+2cc to Mrs.R.Hemalatha, Advocate Sr.38073

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kk[co]
srg 26/06/2018