IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14544 of 2018 &
WMP.Nos.17163 to 17165 of 2018

J.Prakash, Proprietor of
Nagalakshmi Agencies ...Petitioner

Vs

1.The State Tax Officer, office of the Assistant Commissioner (State Taxes), Villupuram I Circle, Villupuram, Villupuram District.

2.The Branch Manager, State Bank of India, Panankuppam, Villupuram, Villupuram District. ...Respondents

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 first respondent in his impugned proceedings made in TIN 33894681986/2014-15 dated 15.10.2015 and quash the same as illegal and contrary to the Scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

For Respondent-1 : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the first respondent. Heard both. In view of the nature of relief this Court proposes to grant, notice to the second respondent is dispensed with and the writ petition itself is taken up for final disposal.

2. The petitioner is before this Court challenging the order of assessment passed by the first respondent for the year 2014-15. The substantial part of the mistake lies with the dealer, as he did not respond to the revision notice dated 14.8.2015.

3. The first respondent issued the revision notice dated 14.8.2015 pointing out that the petitioner filed manual returns in Form I-1 only upto the year 2010-11, that even though the petitioner's tax payer identification number was canceled with effect from 01.4.2011 as per the proceedings dated 31.5.2013, the petitioner continued their business activities, which are in violation of the provisions of the Tamil Nadu Value Added Tax Act, 2006 and that the petitioner effected certain purchases, but not reported the sales details by filing valid returns. The petitioner, though received the said notice, did not respond to the same. Therefore, the first respondent completed the assessment by confirming the proposals in the revision notice dated 14.8.2015 and also imposed penalty.

4. It is seen that the impugned order is dated 15.10.2015. After more than 2½ years, the petitioner has filed this writ petition. This writ petition 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 appeal was over and that as of now, no appeal could have been filed by the petitioner. It is further seen that the petitioner's bank account has also been attached.

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 notice and that the petitioner may be granted one opportunity to go before the first respondent and respond to the revision notice.

6. It is also seen that though the impugned order has been passed on 15.10.2015, the first respondent cannot recover even a single penny in pursuance of the impugned order and that the impugned order remains as a paper order. Hence, this Court is of the considered view that the petitioner can be granted one opportunity to go before the first respondent, however, subject to a condition.

7. Accordingly, the writ petition is disposed of with a direction to the petitioner to pay 25% of the tax demanded as computed in the impugned assessment order, 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 order as a show cause notice and submit his objections. On receipt of the objections, the first respondent shall redo the assessment 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 petition would stand dismissed automatically without any further reference to this Court. On remittance of 25% of the tax demanded, the attachment of the petitioner's bank account shall be lifted forthwith. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The State Tax Officer,
office of the Assistant Commissioner (State Taxes), Villupuram I Circle,
Villupuram, Villupuram District.

+ 1 cc to Mr.R.Hemalatha, Advocate Sr.38074
+ 1 cc to Mr. the Special Government Pleader Sr.38354

WP.No.14544 of 2018 & WMP. Nos.17086 to 17088 of 2018

(CS-VII)
EU(26/06/2018)