IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2018

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.14862 of 2018
&
W.M.P.Nos.17593 and 17594 of 2018

M/s.Raja Agencies,
Rep.by its Proprietor - S.Rajasekar,
No.173, Big Bazaar Street,
Tiruvannamalai - 606 601.
Tiruvannamalai District. ... Petitioner

Vs.

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

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records on the file of the Respondent in his impugned proceedings made in TIN No.33814661951/2012-13 dated 29.11.2014 quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Ms.R.Hemalatha

For Respondent : Ms.G.Dhana Madhri
Government Advocate

O R D E R

Heard Ms.R.Hemalatha, learned counsel for the petitioner and Ms.G.Dhana Mathri, learned Government Advocate appearing for the respondent.

2.The petitioner has filed this writ petition challenging an order of assessment passed under the provisions of Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) for the Assessment year 2012-13. This Court is fully justified in dismissing the writ petition for more than one reason. Firstly, the impugned Assessment order is dated 29.11.2014. There is an inordinate delay and latches on the part of the petitioner. Secondly, the petitioner, if aggrieved, ought to have filed a statutory appeal against the order, for which the period of limitation is 30 days from the date of receipt of the order with the further period of 30 days, provided the petitioner shows sufficient cause for not filing appeal within 30 days. Thirdly, the petitioner did not file objections to the revision notice dated 19.06.2014. However, considering the fact that the impugned Assessment order, though passed in the year 2014, remains as a paper order and the Assessing Officer has not been able to recover even the portion of the tax as quantified. Therefore, this Court is inclined to give one opportunity to the petitioner to go before the Assessing Officer subject to certain conditions. Further, the revision of the turnover has been based upon the mismatch of the details in Annexure-I of the buyer and Annexure -II of the seller, as culled out from the official website of the respondent Department.

3. This Court in the case of J.K.M Graphics Solutions Pvt. Ltd., Vs. CTO, Veppery Assessment Circle reported in (2017) 99 VST 343 has laid down the guidelines as to how the assessment should be proceeded with in case of 'mismatch'. Thus, for the above reasons, this Court is inclined to grant one opportunity to the petitioner.

In the result, the writ petition is disposed of by directing the petitioner to pay 25% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If this condition is complied with, then the petitioner is entitled to treat the impugned order as show-cause notice and submit their objections and reconcile the allegation of mismatch and the Assessment Officer shall afford an opportunity of personal hearing to the petitioner and redo the assessment on merits and in accordance with law. In the event of petitioner fails to comply with the condition imposed in this order, the benefit of this order will not enure to the petitioner and the writ petition would stand automatically dismissed without further reference to this Court leaving it open to the respondent to initiate proceedings for recovery of the tax. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

gpa

To

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

+ 1 cc to MR. R. Hemalatha, Advocate Sr.39254
+ 1 cc to Special Government Pleader Sr.39696

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(CS-DR)
EU(29/06/2018)