In the High Court of Judicature at Madras

Dated : 26.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15600 of 2018 &
WMP.Nos.18511 & 18512 of 2018

Tvl.Hydrojet Cleaning Industries,
rep.by its Partner ...Petitioner

Vs

1.The Commercial Tax Officer,
Chromepet Assessment Circle,
Station No.117, Station Road,
Radha Nagar, Chennai-44.

2. The Manager, Indian Bank,
Chromepet Branch, No.10,
Bahashyam Steet, Radha
Nagar, Chennai-44. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent in assessment order dated 31.7.2017 in CST.No.793007/2015-16 and consequential attachment notice in TIN/33590942995/A3 dated 12.6.2018 and quash the same.

For Petitioner : Mr.Adithya Reddy
For Respondent-1: Mr.V.Haribabu, AGP

ORDER

Mr.V.Haribabu, learned Additional Government Pleader accepts notice for the respondents. 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 has filed this writ petition challenging the assessment order dated 31.7.2017 under the provisions of the Central Sales Tax Act, 1956 for the year 2015-16; so also the attachment notice dated 12.6.2018.

3. The first respondent issued the notice dated 07.10.2016 stating that on verification of the petitioner's monthly returns, it came to light that they did not file documentary evidence along with the returns and therefore, she proposed to assess the dealer on a total and taxable turnover of Rs.28,96,448/- under the provisions of the said Act besides reversing the input tax credit adjustments made, if any.

4. The petitioner filed their reply dated 28.11.2016. Along with the reply, three enclosures were given namely (i) statement; (ii) Annexure II for the months of August and December 2015 and March 2016; and (iii) three tax deduction certificates from the Southern Railway.

5. On receipt of the reply along with the documents, the first respondent verified the same and issued the revision notice dated 23.3.2017, in which, the first respondent noted that the petitioner effected inter-state sales to the Southern Railway in various other States and collected tax at 14.5% under Commodity Code No.301, that therefore, the sales turnover of Rs.8,350/- was proposed to be assessed to tax at 14.5% and that the amounts towards tax deducted at source are pending to be realized. The first respondent, in the revision notice dated 23.3.2017, further noted that a verification of the reply filed by the dealer revealed that they filed certificate of deduction of tax at source received from the Divisional Mechanical Engineer, Southern Railway, Thiruvananthapuram in pursuance of an agreement dated 09.3.2015 for works contract for the value of Rs.16,02,058/-. The first respondent also noted that the dealer had not filed the details of the works contract done by them such as value of the works contract, deduction of tax at source during the year and the copy of the agreement entered into with the Southern Railway.

6. Therefore, an opportunity was granted to the petitioner to produce the copies of the sale bills made to the Southern Railway and other details. Unfortunately, the petitioner did not respond to the revision notice dated 23.3.2017 nor utilized the opportunity granted by the Assessing Officer. Having left with no other option, the Assessing Officer passed the impugned order and confirmed the proposal.

7. Now, the petitioner is before this Court stating that he is in possession of the agreement entered into with the Southern Railway and prays for an opportunity to produce the same before the Assessing Officer. What prompted the petitioner to approach this Court at this juncture is on account of a notice issued by the State Tax Officer, Chromepet Assessment Circle to the second

respondent herein dated 12.6.2018 attaching the petitioner's bank account.

8. Thus, the petitioner is to be blamed for the present situation and the first respondent cannot be faulted. However, considering the fact that the petitioner has done certain works contracts for the Southern Railway, which is a Governmental Organization and as the petitioner stated that they have got a copy of the agreement with them and are ready and willing to produce the same before the Assessing Officer, this Court is inclined to grant one more opportunity to the petitioner.

9. Accordingly, the writ petition is disposed of with a direction to the petitioner to treat the impugned proceedings as a show cause notice and file their objections along with the copies of relevant agreements and the details as called for by the first respondent, within a period of three days from the date of receipt of a copy of this order. On receipt of the reply, the first respondent shall fix a date for personal hearing, verify the documents that may be produced and pass appropriate orders on merits and in accordance with law, within a period of three days thereafter. On satisfaction with regard to the veracity of the documents, the order of attachment dated 12.6.2018 shall be lifted forthwith. No costs. Consequently, the connected WMPs are closed.

-s/d-
Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

To
1.The Commercial Tax Officer, Chromepet Assessment Circle, Station No.117,
Station Road, Radha Nagar, Chennai-44.

2.The Manager, Indian Bank, Chromepet Branch, No.10, Bahashyam Street,
Radha Nagar, Chennai-44.

+1cc to Mr.Adithya Reddy, Advocate sr.41041 [05/07/2018]
+1cc to the Government Pleader Sr.41017 [05/07/2018]

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SRG(27/06/2018)