In the High Court of Judicature at Madras

Dated : 27.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15645 of 2018 & WMP.No.18582 of 2018

Thirukumaran Traders, rep.by
its Proprietor G.Karunakaran ...Petitioner

Vs

The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Collectorate Campus, Kancheepuram.
631502. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the impugned proceedings of the respondent passed in TIN.33181622172/2013-14 dated 20.12.2016, quash the same and further direct the respondent to re-do the assessment in accordance with the law after providing sufficient opportunity to the petitioner.

For Petitioner : Mr.N.Murali
For Respondent : Mr.V.Haribabu, AGP

ORDER

Mr.V.Haribau, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is aggrieved by the revision of assessment made by the respondent for the year 2013-14.

3. The petitioner alone has to be blamed because they did not file their objections to the revision notices dated 20.9.2016 and 04.11.2016 issued by the respondent. Therefore, the respondent cannot be found fault with for confirming the proposal in the said revision notices in the absence of any written objections. Further, the writ petition should have been dismissed on the ground of laches, as the impugned order is

dated 20.12.2016. In addition to that, by now, the limitation period prescribed for availing the appeal remedy is also over. So, the petitioner cannot approach the Appellate Authority also.

4. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer.

5. Since the issue pertains to reversal of input tax credit claimed by the petitioner, this Court is of the considered view that one opportunity can be granted to the petitioner, however, subject to a condition.

6. Accordingly, the writ petition stands disposed of with a direction to the petitioner to pay 15% of the tax demanded within a period of three weeks from the date of receipt of a copy of this order. If the said condition is complied with, the petitioner is entitled to treat the impugned order as a show cause notice and submit their objections within a period of two weeks therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. It is made clear that if the petitioner fails to comply with the condition imposed, the benefit of this order will not enure to the petitioner and the writ petition will stand automatically dismissed giving liberty to the respondent to initiate recovery proceedings. On the other hand, if the petitioner complies with the said condition, the demand of the balance tax for the assessment year from 2013-14 shall remain stayed till fresh orders are passed by the respondent. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (CT),
Kancheepuram Assessment Circle,
Collectorate Campus, Kancheepuram. 631 502.
+ 1 cc to Mr. N. Murlai, Advocate Sr.41215
+ 1 cc to Special Government Pleader Sr.41565

WP.No.15645 of 2018&
WMP.No.18582 of 2018

(CS-V)
EU(06/07/2018)