IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.6.2018

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.15668 of 2018 &
WMP.Nos.18606 & 18607 of 2018

C.Dinesh, Proprietor of
Sri Venkateswara Steels ...Petitioner

Vs

The Commercial Tax Officer,
Villupuram I Circle, Villupuram.
Villupuram District. ...Respondent

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 respondent in its impugned proceedings made in TIN 33444681991/2008-09 dated 31.3.2015 and quash the same.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Mr.V.Haribabu, AGP

ORDER

Mr.V.Haribabu, 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 2008-09.

3. The writ petition should have been dismissed on the ground of laches, as the impugned order is dated 31.3.2015. Further, 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. The assessment pertains to the year 2008-09. It is pertinent to note that in respect of the reversal of the input tax credit proposed under Section 19(20) of the Tamil Nadu Value Added Tax Act, 2006, the petitioner paid the amount of Rs.19,814/- on 24.2.2015. The petitioner refused to receive only the notice dated 04.3.2015 issued under Section 27(1)(a) of the said Act and since the re-assessment is on the basis of a random scrutiny of the details furnished in the balance sheet filed by the Chartered Accountant, 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 and entire penalty for the assessment year from 2008-09 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 Commercial Tax Officer,
Villupuram I Circle, Villupuram, Villupuram District.

+ 1 cc to M/s. Hemalatha, Advocate Sr.41632
+ 1 cc to Mr. the Government Pleader Sr.41570

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