In the High Court of Judicature at Madras

Dated : 09.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.17029 of 2018 & WMP.No.20280 of 2018

M/s.Dev Indus Paints rep.by
its Proprietor K.Revathy ...Petitioner

Vs

1.The Commissioner (CT), Commercial
Taxes Department, Puducherry.

2.The Deputy Commercial Tax Officer,
GD-II, Commercial Taxes Department,
Puducherry. ...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 second respondent herein in show cause notice dated 16.1.2018 in No.GST ITN 34ALWTR5294C1ZK/DCTO-GD-II/2017-2018 and quash the same.

For Petitioner : Mr.P.Suresh
For Respondents: Mr.J.Kumaran, GA

ORDER

Mr.J.Kumaran, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged a show cause notice dated 16.1.2018 and the consequential attachment of the bank account for recovery of tax and penalty in the assessment orders for the years from 2015-16 to 2017-18.

3. The first contention raised by the learned counsel for the petitioner is that no assessment order has been passed and communicated to the petitioner so far as the three relevant assessment years are concerned and that the last assessment, which was made, was only for the year 2014-15.

4. Other contentions have also been raised with regard to the validity of the impugned notice invoking the provisions of the Puducherry Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017.

5. However, this Court considered the first ground and directed the learned Government Advocate to verify and report as to whether any assessment orders have been passed in respect of the relevant years. The learned Government Advocate, on instructions from the officer, who is present in court, has informed that the assessment orders have not been passed in respect of all the three relevant assessment years. Then, there cannot be a demand notice nor there can be any attachment of the petitioner's bank account.

6. Accordingly, the writ petition is allowed, the impugned notice is set aside and Form U notice issued to the petitioner's banker is also set aside. Consequently, there will be a direction to the respondents to return the cheques collected from the petitioner. This direction shall be complied with within 3 days from the date of receipt of a copy of this order. After the cheques are returned, the respondents are directed to issue pre-revision notices to the petitioner for all the three assessment years, grant reasonable opportunity to submit objections, afford an opportunity of personal hearing and complete the assessments in accordance with law. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

RS
To
1.The Commissioner (CT),
Commercial Taxes Department, Puducherry.

2.The Deputy Commercial Tax Officer,
GD-II, Commercial Taxes Department,Puducherry.

+ 1 cc to Mr. Government Pleader Sr.44744
+ 1 cc to Mr. P. Suresh, Advocate Sr.44346

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SSV(CO)
EU(18/07/2018)