In the High Court of Judicature at Madras

Dated : 19.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18309 to 18313 of 2018 &
WMP.Nos.21623 to 21627 of 2018

Tvl.Millennium Motors, Unit
of Miracle Cars India Pvt. Ltd.,
rep.by its Director Mr.A.Selvaraj
...Petitioner in all WPs

Vs

1.The Assistant Commissioner (CT),
Singanallur Assessment Circle,
Coimbatore.

2.The Commercial Tax Officer (Enf.),
Group II, Coimbatore.
...Respondents in all WPs

Common Prayer: PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the entire records relating to the impugned orders in TIN No.33311826140 respectively for the assessment years 2010-11, 2011-12, 2012-13, 2013-14 and 2014-15, all dated 27.6.2018 issued by the first respondent and quash the same.

For Petitioner : Mr.N.Sankarasabari
For Respondents : Mr.M.Hariharan, AGP

COMMON ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner is aggrieved by the assessment orders passed by the first respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the years from 2010-11 to 2014-15.

3. Earlier, the petitioner approached this Court by filing W.P.Nos. 38117 to 38120 and 38527 of 2015 challenging the assessment orders for the very same years on the ground that they have been passed in violation of the principles of natural justice. This Court allowed the said writ petitions by orders dated 10.12.2015 and directed the petitioner to file objections and the assessments were directed to be redone, after which, the first respondent issued the notices dated 30.12.2015 and they were served on the petitioner. 4. According to the petitioner, they filed their reply on 07.1.2016 and on 13.7.2017.

5. However, in the impugned assessment orders, the Assessing Officer clearly stated that no objections have been received and that the petitioner had not produced any proof before the first respondent to show that the objections given by the petitioner have been delivered in the office of the first respondent. In the absence of proof of delivery of the objections, this Court is not inclined to accept the stand taken by the petitioner that they had filed the objections dated 07.1.2016 and 13.7.2017.

6. But, taking note of the submission made by the learned counsel for the petitioner that three of the erstwhile employees of the petitioner had defrauded the petitioner and in this regard, a criminal case is pending in Cr.No.26 of 2014 on the file Coimbatore Crime Branch for the offenses under Sections 120B, 465, 467, 408 and 420 of the Indian Penal Code, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 10% of the tax demanded for each of the assessment years within a period of four 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 orders as show cause notices and submit their objections within a period of two weeks therefrom. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessments 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 petitions will stand automatically dismissed giving liberty to the first 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 years

from 2010-11 to 2014-15 shall remain stayed till fresh orders are passed by the first respondent. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT), Singanallur Assessment Circle, Coimbatore.

2.The Commercial Tax Officer (Enf.), Group II, Coimbatore.

+1cc to Mr.N.Sankara Sabari, Advocate, S.R.No.47834

+1cc to the Spl Government Pleader, S.R.No.48660

WP.Nos.18309 to 18313 of 2018&
WMP.Nos.21623 to 21637 of 2018

SKV(CO)
GSP(31/07/2018)