In the High Court of Judicature at Madras

Dated : 25.7.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.18900 & 18901 of 2018 &
WMP.Nos.22285 & 22286 of 2018

M/s.MACH India Industries, rep.
By its Proprietor R.Boovaragavan ...Petitioner

Vs

1.The Deputy Commercial Tax Officer,
Villupuram-1 Assessment Circle,
Villupuram, Villupuram District.

2.The Assistant Commissioner of Tax,
Porur Assessment Circle, No.3/1790,
Kundrathur Main Road,
Madhananthapuram, Chennai-125. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records comprised respectively in TIN-33704682818/2014-15 dated 16.8.2016 and 33704682818/2013-14 dated 29.7.2016 passed by the first respondent and quash the same as unconstitutional and in violation of the principles of natural justice.

For Petitioner : Mr.K.M.Malar Mannan

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 revision of assessment made by the first respondent for the years 2013-14 and 2014-15.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3. The petitioner alone has to be blamed because they did not file their objections to the revision notices dated 08.1.2016 issued by the first respondent. Therefore, the first 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 petitions should have been thrown out on the ground of laches and the petitioner has approached this Court only after their bank account was attached and a sum of Rs.2 lakhs was recovered.

4. The revision of assessment is on the ground that on verification of the data available in the intranet website, it came to light that the petitioner effected sales under Commodity Codes 2067 and 2140 to various registered dealers in Tamil Nadu during the relevant assessment years and that the petitioner failed to file monthly returns nor paid the tax due thereon. The first respondent ultimately concluded that the petitioner collected tax on their sales during the relevant assessment years with an intention to evade payment of tax. The first respondent proposed to add 25% of the amounts for probable omissions and levy penalty at 150% of the tax due and accordingly confirmed the proposals in the absence of written objections.

5. The learned counsel for the petitioner submits that one opportunity may be granted to the petitioner to go before the Assessing Officer. He further submits that the bank attachment may be lifted.

6. Considering the fact that a sum of Rs.2 lakhs has already been recovered from the petitioner, this Court is of the considered view that one opportunity can be granted to the petitioner.

7. Accordingly, the writ petitions stand disposed of with a direction to the petitioner to pay 15% of the tax demanded for each of the assessment years within a period of three weeks from the date of receipt of a copy of this order. If the Department has already recovered the equivalent amount towards payment of 15% of the tax demanded for each of the assessment years by way of bank attachment, the attachment of the petitioner's bank account shall be lifted forthwith and 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

https://hcservices.ecourts.gov.in/hcservices/

afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. Till the above exercise is completed, the demand of the balance tax and penalty for the assessment years 2013-14 and 2014-15 shall remain stayed. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To
1.The Deputy Commercial Tax Officer, Villupuram-1 Assessment Circle,
Villupuram, Villupuram District.
2.The Assistant Commissioner of Tax, Porur Assessment Circle, No.3/1790,
Kundrathur Main Road, Madhananthapuram, Chennai-125.

+1cc to MR.K.M.Malar Mannan, Advocate SR.No.50325

sm:9.8.2018

WP.Nos.18900 & 18901 of 2018&
WMP.Nos.22285 & 22286 of 2018

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/