In the High Court of Judicature at Madras

Dated : 02.8.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.19827 of 2018 & WMP.Nos.23283 & 23284 of 2018

M/s.Maruthi Chemicals, rep.by
its Proprietor S.Ramakrishnan ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Nethaji Road Assessment Circle,
Erode, Erode District.

2.The Appellate Deputy Commissioner
(CT), Erode, Erode District. ...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 1st respondent in his impugned proceedings made in TIN: 33512880905/2015-16 dated 04.9.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha

For Respondents : Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged an assessment order passed by the first respondent dated 04.9.2017 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the year 2015-16.



3. Admittedly, the petitioner did not file their objections to the revision notice dated 15.6.2017. Therefore, the first respondent cannot be faulted for having completed the assessment in the manner done in the impugned order. Further, aggrieved by such an order, the petitioner filed an application under Section 84 of the said Act and requested for revision of the assessment. The said application was dismissed by the first respondent by order dated 07.5.2018.

4. The petitioner challenged both the assessment order dated 04.9.2017 and the order dated 07.5.2018 by filing an appeal before the second respondent along with an application to condone the delay of 265 days in filing the appeal.

5. The petitioner would state that 25% of the admitted tax was paid by them as a condition precedent for filing the appeal. The miscellaneous petition seeking to condone the delay was numbered as M.P.VAT.53/2018, which was rejected by the Appellate Authority by order dated 09.7.2018 stating that the appeal petition cannot be entertained. Now, the petitioner is before this Court challenging the assessment order dated 04.9.2017.

6. Considering the facts that since 2017, the tax could not be recovered, that the assessment order remained as a paper order and that only 25% of the admitted tax has been paid by the petitioner, this Court is inclined to grant one more opportunity to the petitioner, however, subject to a condition.

7. Accordingly, the writ petition is disposed of by directing the petitioner to pay a further sum equivalent to 10% of the disputed tax within a period of three weeks from the date of receipt of a copy of this order. If such payment is effected within the time frame stipulated, the petitioner would be entitled to treat the impugned assessment order dated 04.9.2017 as a show cause notice and file their objections within a period of 15 days therefrom. On receipt of the objections, the first 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 first respondent to initiate recovery proceedings. No costs. Consequently, the connected WMPs are closed.



Sd/-
Assistant Registrar(CS VI)



//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (CT),
  Nethaji Road Assessment Circle,
  Erode, Erode District.

2.The Appellate Deputy Commissioner (CT),
  Erode, Erode District.

+1cc to Mr.R.Hemalatha, Advocate Sr.53019
+1cc to the Special Government Pleader Sr.52987

WP.No.19827 of 2018 & WMP.
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srg 21/08/2018