In the High Court of Judicature at Madras

Dated : 26.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.10631 to 10633 of 2018
& WMP.Nos.12581 to 12583 of 2018

Thiru P.Mohan ...Petitioner (ALL WPs)

Vs

The Commercial Tax Officer,
Villupuram-I. ...Respondent (ALL WPs)

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records of the respondent in orders dated 22.4.2016 in TIN No.33264681702/2007-08, TIN No. 33264681702/2008-09 and TIN No.33264681702/2010-11 and quash the same.

For Petitioner : Mr.Adithya Reddy (ALL WPs)
For Respondent : Mr.M.Hariharan, AGP (ALL WPs)

COMMON ORDER

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

2. The petitioner is before this Court challenging the orders of assessment for the years 2008-09, 2009-10 and 2010-11. The substantial part of the mistake lies with the dealer, as he did not respond to the revision notices dated 01.4.2016.

3. The respondent issued the revision notices dated 01.4.2016, pointing out that on verification of the assessment files for the relevant years, it was seen that the petitioner had not filed the agreement copies for the work undertaken by him. Therefore, the petitioner was instructed to file the agreement copies immediately, failing which, the best of judgment revision orders would be passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006.

4. The petitioner, though received the said notices, did not produce the agreement copies. Therefore, the respondent completed the assessments and confirmed the proposals in the

notices dated 01.4.2016. After two years, the petitioner has filed these writ petitions because the respondent issued distraint order for attaching the petitioner's property. These writ petitions should not have been entertained at the first instance, since the petitioner did not explain the gross delay in approaching this Court, especially, when the limitation prescribed for filing the appeals was over and no appeal could have been filed by the petitioner.

5. The learned counsel for the petitioner submits that it is true that the mistake has been committed by the dealer in filing objections. The petitioner is a dealer, who has been carrying on works contract for Government Departments, such as Local Bodies and the Block Department Officer of the concerned local body has given requisite certificates and made endorsement in the ledger entries and the petitioner may be granted one opportunity to go before the respondent and place those documents.

6. On a perusal of the income and expenditure accounts filed by the petitioner under the Income Tax Act, 1961 for the relevant assessment years, it is seen that the substantial portion of the work has been done by the petitioner for various Local Bodies and the petitioner has given the contract number and also mentioned about the departmental supply of materials wherever it has been given. It may be true that the petitioner did not produce the copies of the contract agreements. However, the petitioner having transacted business with the Governmental bodies, the respondent can accept any authenticated record given by the concerned authority, for whom, the work has been performed by the petitioner and this, in my view, would be sufficient to examine the correctness of the transactions reported by the petitioner in his turn over. However, to enable the petitioner to be entitled to such opportunity, he should be put on terms.

7. Accordingly, the writ petitions are disposed of with a direction to the petitioner to pay 25% of the tax demanded for each of the assessment years as computed in the impugned assessment orders, within a period of 15 days from the date of receipt of a copy of this order. If such payment is made, the petitioner is entitled to treat the impugned orders as show cause notices, submit his objections and appear before the authority by producing documents duly attested by the concerned officers, which shall be examined by the respondent and the assessments shall be re-done on merits and in accordance with law. However, if the petitioner fails to comply with the said conditional order, the benefit of this order would not enure to the petitioner and the writ petitions would stand dismissed automatically, leaving it open to the petitioner to work out his

remedies in accordance with law. The attachment of the property of the petitioner shall continue till further orders are passed in terms of the above directions. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer, Villupuram-I.

+1cc to Mr. Advocate, S.R.No.31408

WP.Nos.10631 to 10633 of 2018&
WMP.Nos.12581 to 12583 of 2018

RK(CO)
TR(14/05/2018)