IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2018

CORAM
THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.26551 of 2018
and
WMP.No.30892 of 2018

M/s.Miamia Printers
Rep. by its Proprietor N.Basheer Ahmed
No.A-1, 1857, 13th Main Road,
6th Avenue, Anna Nagar (West)
Chennai-600 040. ... Petitioner

Vs.

The Commercial Tax Officer
Koyambedu Assessment Circle
Market Management Committee Buildings
Koyambedu Market
Koyambedu, Chennai-600 107. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a WRIT OF CERTIORARIFIED MANDAMUS, to call for the records of the respondent in CST:982830/2012-13 dated 13.11.2013, quash the same and further direct the respondent to pass orders on merits and in accordance with law on the representations dated 28.02.2014, 11.05.2018 and 06.07.2018 laid down by this Hon'ble Court in 128 STC 498

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

O R D E R

This writ petition is filed challenging the order of the assessment dated 13.11.2013.

2. Mr.M.Hariharan, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. Heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.M.Hariharan, learned Additional Government Pleader for the respondent.

4. The learned counsel for the petitioner though raised very many grounds on merits against the order of assessment, impugned in this writ petition, this Court is not inclined to entertain those objections and consequently, interfere with the order of assessment, mainly on two reasons. Firstly, it is seen that the petitioner has approached this Court and filed the present writ petition nearly after five years from the date of the assessment order. Therefore, on the ground of latches, this writ petition cannot be entertained. Secondly, it is seen that the petitioner has not made any objections to the notice of proposal and consequently, the Assessing Officer has passed the impugned order of assessment. What is not raised before the Assessing Officer by way of reply, is sought to be raised by the petitioner before this Court, by filing the present writ petition, that too, after a period of nearly 5 years. Certainly, this conduct of the petitioner cannot be appreciated even assuming that the petitioner has a case on merits. Therefore, this Court is not inclined to express any view on the merits of the assessment, as admittedly, the petitioner has filed an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, for rectification of mistake on 18.07.2018, said to have been filed in time. Therefore, it is for the petitioner to pursue such application before the respondent and raise all his contentions.

5. Accordingly, this writ petition is disposed of, only with a direction to the respondent to consider the said application filed under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, and pass orders on merits and in accordance with law, after giving due opportunity of hearing to the petitioner. Such exercise shall be done by the respondent within a period of three weeks from the date of receipt of a copy of this order. Till an order is passed by the respondent, no coercive steps shall be taken against the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer
Koyambedu Assessment Circle
Market Management Committee Buildings
Koyambedu Market
Koyambedu, Chennai-600 107.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.69287
+1cc to the Government Pleader, S.R.No.69353

W.P.No.26551 of 2018

PVS(CO)

rrs 26/10/2018