In the High Court of Judicature at Madras

Dated : 02.11.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Writ Appeal Nos.2424 to 2428 of 2018 &
CMP.Nos.19566, 19567, 19569 to 19571 & 19573 to 19575 of 2018

M/s.Palani Andavar Trading Company, rep.by its proprietor N.Sethuramalingam ...Appellant/ Petitioner in WAs

Vs

The Assistant Commissioner (CT), Mettur Road Circle, Erode. ...Respondent/ Respondent in WAs

APPEALS under Clause 15 of the Letters Patent against the common order dated 21.8.2018 made respectively in W.P.Nos.21331 to 21333, 21330 and 21329 of 2018.

Prayer:

Writ Petitions No.s 21329 to 21333 of 2018 filed Under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, Calling for the records of the respondent in his proceedings in TIN:33853044163/2009-10,33853044163/2010-11, 33853044163/2011-12,33853044163/2012-13,33853044163/2013-14 respectively, quash the assessment order dated 01.09.2016 passed there in.

For Appellant : Mr.R.L.Ramani, SC for Mr.B.Raveendran

For Respondent : Mrs.G.Dhana Madhri,AGP(T)

COMMON JUDGMENT
(Judgment was delivered by T.S.SIVAGNANAM,J)

We have heard Mr.R.L.Ramani, learned Senior Counsel, assisted by Mr.B.Raveendran, learned counsel on record for the appellant and Mrs.G. Dhana Madhri, learned Government Advocate accepting notice for the respondent.

2. These appeals are directed against the common order passed respectively in W.P.Nos.21331 to 21333, 21330 and 21329 of 2018 dated 21.8.2018.

3. In the said writ petitions, the appellant had questioned the assessment orders dated 01.9.2016 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the assessment years from 2009-10 to 2013-14. The said assessment orders were challenged on the ground that they were in violation of the principles of natural justice, that proper notice was not served and that the procedure to be followed while serving notice was not adhered to.

4. The learned Single Judge, after considering the submissions made on either side, substantially agreed with the submissions of the learned counsel for the appellant, set aside the assessment orders and remitted the matters back for a fresh consideration. While doing so, the learned Single Judge directed the appellant to pay 10% of the demand of tax in respect of each of the assessment years within a period of three weeks and thereafter to file objections to the proposed revision of assessment and on receipt of the objections, there was a direction given to the Assessing Officer to afford an opportunity of personal hearing. The appellant is before us challenging that portion of the order whereby the learned Single Judge directed payment of 10% of demand of tax for each of the assessment years.

5. The learned Senior Counsel appearing on behalf of the appellant has contended that the procedure required to be followed for service of notice as prescribed under Rules 52(1)(a), (b) and (c) of the Tamil Nadu Value Added Tax Rules, 2007 were not adhered to and straightaway, the respondent proceeded to resort to affixure as provided under Rule 52(1)(d) of the said Rules. In our considered view, the learned Single Judge had taken note of the submissions and substantially agreed with the appellant/assessee, which led to setting aside the assessment orders dated 01.9.2016.

6. However, taking note of the fact that the assessments are pending and that earlier, the wife of the proprietor of the appellant approached this Court resisting the communication proposing to proceed against the property owned by her, we find no error in the exercise of discretion by the learned Single Judge.

7. Accordingly, the writ appeals fail and are accordingly dismissed. No costs. Consequently, the connected CMPs are also dismissed.

8. However, considering the submissions made, we extend the period for payment of 10% of demand of tax for

each of the assessment years to six weeks from the date of receipt of a copy of this order instead of three weeks as ordered by the learned Single Judge. Except for such modification, the order and direction issued by the learned Single Judge are confirmed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
The Assistant Commissioner (CT), Mettur Road Circle, Erode.

+1cc to Mr..B.Raveendran , Advocate SR.No. 75952
+1 CC TO GOVERNMENT PLEADER SR.NO. 76537

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to 19571 & 19573 to 19575 of 2018

ASK(11/12/2018)