IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.27852 of 2018
and
WMP.Nos.32375 & 32378 of 2018

M/s.N.K.V.Posters
Rep. by its Managing Partner - A.Narayanamoorthy
No.17-A, Theppakula Street,
Tirukoilur - 605 757
Villupuram District. ... Petitioner

Vs.

The Commercial Tax Officer
Tirukoilur,
Villupuram District. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33674762423/2011-12 dated 15.05.2015 and to quash the same.

For Petitioner : Mr.S.Rajasekar
For Respondent : Mrs.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate 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.

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2. The petitioner is aggrieved against the order of assessment dated 15.05.2015 passed in respect of the assessment year 2011-2012.

3. Heard both sides.

4. This Court is not inclined to entertain the present writ petition for more than one reason. Firstly, the petitioner has chosen to file the present writ petition to challenge the order

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of assessment after a period of 3 1/2 years. On the sole ground of delay and latches, the petitioner cannot be shown any indulgence. Secondly, it is seen that the petitioner was given sufficient opportunity by the respondent to furnish their reply to the notice of proposal and also to appear for personal hearing. Both the opportunities were not utilized by the petitioner and thus, the Assessing Officer has passed the impugned order of assessment. No doubt, the learned counsel for the petitioner sought to contend that the issue involved in this case is mis-match and therefore, the petitioner can be shown some indulgence to pursue the matter by way of filing an appeal. Needless to say that it is for the petitioner to work out their remedy in accordance with law before the concerned Appellate Authority, provided such appeal is filed within the time stipulated therein. As admittedly, the time provided under the Statute has already expired, the Appellate Authority will also be not in a position to entertain the appeal, by condoning the delay.

5. However, considering the fact that the issue involved in this case viz., mis-match has already been dealt with by this Court in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343), by issuing certain directions/guidelines, I am of the view that the petitioner can be given final chance to agitate the matter before the Appellate Authority, by complying with other statutory requirements.

6. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file an appeal before the concerned Appellate Authority within a period of two weeks from the date of receipt of a coy of this order, by complying with other statutory requirements. If any such appeal is filed, the Appellate Authority shall consider the same and pass orders on merits and in accordance with law, by considering the decision made by this Court in WP.No.105 of 2016 etc., dated 01.03.2017, reported in JKM Graphics Solutions Vs. CTO, ([2017] 1999 VST 343), within a period of four weeks thereafter, without reference to the period of limitation for filing such appeal. No costs. Consequently, connected miscellaneous petitions are closed.

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s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

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To
The Commercial Tax Officer
Tirukoilur,
Villupuram District.

+1 CC to Mrs.R. Hemalatha, Advocate sr 72786.
+1 CC to Spl. Govt. Pleader sr 73077.

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MP(CO)
SP(02/11/2018)

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