IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.33976 of 2018
and
W.M.P.Nos.39454 & 39455 of 2018

Tvl.Rohan Ceramics,
represented by its Proprietor,
No.601, MTH Road,
Chennai - 600 050. ...Petitioner

vs.

The State Tax Officer,
[Formerly Commercial Tax Officer],
Korattur Assessment Circle,
No.50, Yadava Street, Padi,
Chennai - 600050. ..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 vide his order of assessment in TIN 33221349289/2012-2013 dated 31.07.2015 and quash the same as illegal, unconstitutional for having been passed in violation of principles of natural justice and further direct the respondent to pass fresh orders in accordance with law after granting an opportunity of personal hearing to the petitioner.

For Petitioner : Mr.A.Ravichandran
For Respondents : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate (Tax) 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.

2. The petitioner is aggrieved against the order of assessment dated 31.07.2015 passed in respect of assessment year 2012-2013.

3. Without going into the merits of the matter, this Court is not inclined to entertain this writ petition on

two reasons viz., that the petitioner has filed the present writ petition after a period of more than three years and that the petitioner also did not file any reply to the notice of proposal.

4. No doubt, the learned counsel for the petitioner contended that the reason for not filing their reply to the notice of proposal was neither deliberate nor willful and on the other hand, it was due to severe illness of the petitioner's wife, who got admitted in the hospital for a period of six months during the relevant point of time. The learned counsel also invited this Court's attention to the certificate issued by the Doctor in support of such contention. Apart from stating so, the learned counsel for the petitioner submitted that the petitioner has in fact paid a sum of Rs.1,00,000/- as against the demand of Rs.2,95,676/- made in the impugned order. Thus, he contended that an opportunity may be given to the petitioner to agitate the matter on merits, since the petitioner is having substantial materials to disprove the claim made by the Assessing Officer.

5. Since this Court is not inclined to entertain this writ petition, only on the ground that the same is filed belatedly and in view of the fact that the petitioner has stated some reasons for not filing the reply before the Assessing Officer, this Court is of the view that the petitioner can agitate the matter before the Assessing Officer, by way of filing an application under Section 84 of the Tamil Nadu Value Added Tax Act, 2006, by raising all the contentions.

6. Accordingly, this Writ Petition is disposed of, without expressing any view on the merits of the claim made by the petitioner, only by granting liberty to the petitioner to file the application under Section 84 of the TNVAT Act, 2006, by raising all the contentions within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the Assessing Officer shall consider the same and pass orders on the same on merits and in accordance with law, after giving due opportunity of personal hearing to the petitioner within a period of six weeks thereafter. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

sni/mk

To

The State Tax Officer,
[Formerly Commercial Tax Officer],
Korattur Assessment Circle,
No.50, Yadava Street, Padi,
Chennai - 600 050.

+1cc to Mr.A.Ravichandran , Advocate SR.No. 89052

W.P.No.33976 of 2018

A.SK(21/01/2019)