BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.1025 of 2018
and
W.M.P. (MD). No. 1058 of 2018

Tvl. Bharath Cotton Company,
Represented by its Proprietor,
R.Ramadass,
S/o.Ramasamy,
No.16, Natham Road,
Dindigul - 624 001. .. Petitioner

Vs.

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner (CT)-V,
Dindigul - V Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector Office Road,
Madurai - 625 020. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records pertaining to the impugned proceedings of the second respondent in TIN No.33705381024/2012-13, dated 20.11.2017 and quash the same.

For petitioner : Mr.P.Jessi Jeeva Priya
For respondents : Mr.M.Jeyakumar
Additional Government Pleader

O R D E R

Mr.M.Jeyakumar, learned Additional Government Pleader takes notice for the respondents.

2. By consent of both parties, the main writ petition is taken up for final disposal at the stage of admission itself.

3. The petitioner is an assessee with the second respondent. In respect of the assessment year 2013-2014, the petitioner was served with a pre-assessment notice. The petitioner instead of

offering his explanation, was periodically asking for time on health grounds. It is relevant to note here, that the notice was issued in the first instance on 18.02.2017. On as many as three occasions, the petitioner had asked for time. Finally, the impugned order dated 20.11.2017 came to be passed.



4. The learned Counsel appearing for the writ petitioner submitted that the impugned order suffers from a glaring legal infirmity. According to the learned Counsel for the writ petitioner the standard set out in J.K.M Graphics Solutions Private limited case has not been met while issuing the pre-revision notice.

5. This Court considering the facts and circumstances, is of the view that the writ petitioner can be afforded one more opportunity to explain with regard to the transactions set out in the pre-revision notice. The order impugned in the writ petition can be treated as a notice. The writ petitioner shall submit the explanation and thereafter the second respondent after affording due opportunity of personal hearing and applying the principle of natural justice pass final orders in accordance with law. But then petitioners have to be necessarily be put on terms.

6. The learned Counsel appearing for the petitioner on instructions undertook to pay 15% of the disputed tax within a period of two weeks from the date of receipt of a copy of this order. If the petitioner does not pay the said amount within the ti me permitted, the benefit of this order will not enure to the writ petitioner and the writ petition shall stand automatically dismissed.

7. This Writ Petition is allowed on the above terms. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To:
1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai - 600 005.
2.The Assistant Commissioner (CT)-V,
Dindigul - V Assessment Circle,
Commercial Taxes Buildings,
Sub-Collector Office Road,
Madurai - 625 020.

+1cc to M/S.P.Jessi Jeeva Priya, Advocate SR.No. 47332
+1cc to Special Government Pleader, SR.No. 47446

ORDER MADE IN
W.P. (MD) No.1025 of 2018
and
W.M.P. (MD). No. 1058 of 2018

kmi
JM/SV/SAR 2/09.02.2018/3P/5C