



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) Nos. 5997 to 5999 of 2018

and

W.M.P (MD) Nos. 5867 to 5869 of 2018

Tvl. Jegavarnam Enterprises,
Rep. by its proprietor
J. Ramasamy

... Petitioner in all petitions

Vs.

The Assistant Commissioner (ST),
West Veli Street Assessment Circle,
Madurai.

... Respondent in all petitions

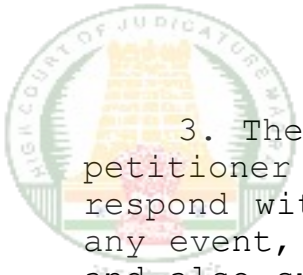
Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the respondent in Assessment Nos. 33875021012/2013-14, 33875021012/2014-15 & 33875021012/2015-16, respectively, dated 27.02.2018, quash the same and further direct the respondent to pass order afresh after considering the petitioner's reply and objections sent on 28.02.2018 received by the respondent on 01.03.2018 and after verifying the books of accounts of the petitioner and after affording an opportunity of personal hearing to the petitioner.

For Petitioner : Mr. A. Chandrasekaran
For Respondent : Mr. J. Gunaseelan Muthiah,
Additional Government Pleader
(In all petitions)

COMMON ORDER

As the issue involved in all these writ petitions are similar in nature, they are disposed of by way of this common order.

2. The petitioner is an assessee registered with the respondent. In respect of three different Assessment Years, action was taken under Section 27 of TNVAT Act, 2006, and pre-revision notices were issued on 07.02.2018. The said notices clearly read that the assessee must respond within fifteen days. The petitioner, however, submitted his reply only on 28.02.2018. The said explanation was received by the respondent on 01.03.2018. In the meanwhile, the impugned orders came to be passed on 27.02.2018.



3. The learned Counsel for the writ petitioner submits that the petitioner was ill at that time and that therefore, he could not respond within the time stipulated in the pre-revision notices. In any event, he had approached the respondent in person on 28.02.2018 and also submitted a reply. Therefore, he could not be said to have been committed guilty of gross laches. But, the fact remains that he did not submit his reply within time. The relevant provision contemplates that reasonable opportunity must be given. Since, in this case, the writ petitioner did not avail the opportunity given to him, this Court is of the view that he must be put on terms and given one more opportunity.

4. The learned Counsel for the writ petitioner, on instructions, submits that the petitioner would remit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) on or before 31.03.2018, without prejudice to his contentions and defences. This undertaking given by the learned Counsel for the writ petitioner is recorded.

5. In view of the same, all the orders impugned in the three writ petitions are quashed. The respondent is directed to afford an opportunity of hearing to the petitioner and pass orders afresh, in accordance with law. It is made clear that the direction to pay the sum of Rs.2,00,000/- (Rupees Two Lakhs only) is a consolidated and composite condition covering all the three writ petitions.

6. These writ petitions are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

The Assistant Commissioner (ST),
West Veli Street Assessment Circle,
Madurai.

+1CC TO M/S.A.CHANDRASEKARAN, ADVOCATE, SR NO.57014
+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.57326

W.P. (MD) Nos.5997 to 5999 of 2018
and
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21.03.2018

gk

MS/SKN-RSK/SAR-1/27.03.2018/2P.4C