BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P.(MD)Nos.6242 and 6243 of 2018
and
W.M.P.(MD)Nos.6075 and 6076 of 2018

M/s. JOE & Co.,
represented by its Proprietor,
J.Emmanuel ... Petitioner in both the petitions

Vs.

State Tax Officer (Main)
Tuticorin-III Assessment Circle,
Commercial Tax Buildings,
Tuticorin. ... Respondent in both the petitions

PRAYER W.P.(MD)Nos.6242 of 2018 : This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in TIN 33865924039/2010-11 dated 16.11.2017 and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass a assessment order afresh after verifying the records filed including opportunity of personal hearing.

PRAYER W.P.(MD)Nos.6243 of 2018 : This Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records in TIN 33865924039/2011-12 dated 16.11.2017 and quash the same as arbitrary, illegal and against the principles of natural justice and direct the respondent to pass a assessment order afresh after verifying the records filed including opportunity of personal hearing.

For petitioner : Mr.S.Karunakar

For Respondent : Mr.S.Srimathy,
Special Government Pleader
(in both petitions)

COMMON ORDER

The petitioner in these writ petitions suffered adverse orders of attachment. Questioning the same, he preferred appeals. The appeals filed by the writ petitioner were allowed and the matter was remitted to the file of the respondent. After remand, the respondent issued notice dated 15.09.2017. The petitioner sought time. The said time was granted and fresh notice dated 26.10.2017 was issued. The petitioner did not respond. Therefore, final orders came to be passed. They are assailed in these writ petitions.

2. The learned counsel for the petitioner submitted that only due to medical reasons, he was not in a position to respond. In paragraph 8 of the affidavit filed in support of these writ petitions, the reasons have been set out.

3. Though, the reason assigned by the writ petitioner appears to be convincing, this Court is of the view that he ought to be put on terms. The learned counsel on instructions from the writ petitioner submitted that he would pay a sum of Rs.50,000/- on or before 28.03.2018, to the respondent, toward his tax dues. This would be without prejudice to the defence taken by him. The said amount would cover both the writ petitions.

4. In view of the undertaking given by the writ petitioner, the orders impugned in these writ petitions are quashed. The matter is remitted to the file of the respondent. The respondent is directed to give one final opportunity. It is for the petitioner to avail the same. If the petitioner appears and offers his objections, the respondent shall take note of the same and pass orders afresh in accordance with law.

5. Accordingly, these writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Crl.Side)

/True copy/

Sub Assistant Registrar

To

State Tax Officer (Main)
Tuticorin-III Assessment Circle,
Commercial Tax Buildings,
Tuticorin.

+2cc to Mr.S.Karunakar, Advocate, SR.No.57535 & 57536.
+1cc to Special Government Pleader, SR.No.58407.

ORDER MADE IN
W.P.(MD)Nos.6242 and 6243 of 2018
23.03.2018

pnn

RAM/SV MMS/SAR 4/2P/5C