BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **22.10.2018**

Delivered on : **20.11.2018**

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.13172 of 2018
and
W.M.P.(MD)No.12022 of 2018

Dhanalakshmi @ Latha .. Petitioner

Vs.

1. The State of Tamil Nadu,
   Rep. by its Secretary to Government,
   Department of Commercial Taxes & Registration,
   Fort St. George, Chennai - 600 009.

2. The State Tax Officer,
   Thiruppathur Assessment Circle,
   Thiruppathur, Sivagangai District. .. Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order passed by the second respondent dated 21.03.2018 and received by the petitioner on 15.05.2018, in his order No.TNGST5501379/2006-07 and quash the same and to direct the second respondent to afford an opportunity of personal hearing and to put forth the case of the petitioner and pass fresh orders, thereafter, for the assessment year 2006-07.

For Petitioner : Mr.M.MD.Ibrahim Ali
For Respondents : Mr.D.Muruganandham,
Additional Government Pleader

ORDER

This writ petition is directed against the order passed by the second respondent in No.TNGST5501379/2006-07 dated 21.03.2018, vide which, revised orders for the subject assessment year, being 2006-07, came to be passed.

2. Learned Counsel for the petitioner would submit that the petitioner's husband, one R.Sivaraman started a business in the name and style of 'Rams Exports' @ Sivagangai, which was assessed under the second respondent. The said Sivaraman died on 08.07.2007 and thereafter, the second respondent, based on the letter of the petitioner dated 14.09.2007, has passed an order dated 20.05.2008, cancelling the TIN number of the said 'Rams Exports' with effect from 08.07.2007. In the mean time, the petitioner, along with her children, has shifted to her parental home at Chennai. Such being so, the petitioner has received a show cause notice from the second

respondent with regard to the firm, in respect of the assessment year 2006-07, for which, she responded. Thereafter, personal hearing was also extended. But, the petitioner, being a widow, owing to her personal problems, was not able to appear along with supporting documents, on time. In the mean time, the present impugned order came to be passed and therefore, the learned Counsel prays for allowing the present writ petition.

3. Learned Additional Government Pleader, on the other hand, submitted that the petitioner was served with show cause notices on 01.03.2017, 27.07.2017 and hearing notices on 15.12.2017 & 19.02.2018. The petitioner, though submitted her objections, has not turned up for personal hearing. However, on 19.02.2018, the brother of the petitioner, though appeared before the second respondent without any authorization letter, has also not produced any documents in support of the contentions raised in their replies. Hence, he prayed for dismissing the present writ petition.

4. Heard the learned Counsel on either side and perused the documents placed on record.

5. After hearing the learned Counsel on either side elaborately, this Court is inclined to afford one more opportunity to the petitioner to put forth her case, for the reasons stated infra.

6. According to the petitioner, the business was closed in the year 2007, after the demise of her husband and she did not know anything with regard to the business functions. After the demise of her husband, she had genuinely brought the same to the notice of the Department and sought for cancellation of TIN number. Only thereafter, the second respondent has passed the order dated 20.05.2008, cancelling the TIN number allotted in favour of the said 'Rams Exports'. The petitioner has shifted her residence and is currently living at her parental house. After receiving the notices, ie., either show cause notice or hearing notice, she did not remain silent, instead, has sought for time and has filed her reply. Even on the last date of hearing, it is not the case of the second respondent that none appeared on behalf of the petitioner, because, the brother of the petitioner appeared on her behalf, but, without any authorisation letter. Therefore, in the opinion of this Court, the second respondent, in the interest of justice, ought to have granted one more opportunity to him to appear along with the authorisation letter and other documents, if any.

7. Considering the facts and circumstances of the case and also considering the fact that the petitioner is a widow, this Court is of the view that ends of justice would be met, if one more opportunity is afforded to the petitioner to put forth her case. In such a view of the matter, the order impugned dated 21.03.2018 is set aside and the matter is remanded back to the second respondent for fresh consideration. The second respondent is directed to fix a

specific date for hearing, within a period of two weeks from the date of receipt of a copy of this order and communicate the same to the petitioner, in advance. On the said date, the petitioner or her authorised representative with authorisation letter, shall appear before the second respondent and put forth their contentions, along with supporting documents, if any and after hearing the petitioner, the second respondent shall pass appropriate reasoned orders, purely on merits, within a further period of four weeks thereafter. Needless to say that if the petitioner does not co-operate in the enquiry or does not avail personal hearing, the second respondent shall record the same and pass orders, in accordance with law.

8. This writ petition stands disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar()

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Secretary to Government,
   State of Tamil Nadu,
   Department of Commercial Taxes & Registration,
   Fort St. George, Chennai – 600 009.

2. The State Tax Officer,
   Thiruppathur Assessment Circle,
   Thiruppathur, Sivagangai District.

+1cc to Mr.M.Mohamed Ibrahim Ali ,Advocate Sr.No.96013

GK

KM/SV/SAR2/17.12.2018/3P/4C

Order made in
W.P(MD)No.13172 of 2018
and
W.M.P.(MD)No.12022 of 2018
20.11.2018