IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 02.04.2019
CORAM
THE HONOURABLE Dr. JUSTICE ANITA SUMANTH
W.P. No.1664 of 2019
and
WMP. No.1865 of 2019

Tvl.Sri Abirami Jewellery,
represented by its Proprietor
A.M.Dashnamurthi .. Petitioner

vs.

The Assistant Commissioner (State Tax)
Panruti Town, Cuddalore District. .. Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent vide his Order of Assessment in TIN 33174481301/2016-17 dated 04.06.2018 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.R.Ganesh Kanna
For Respondent : Mr.V.Haribabu,
Additional Government Pleader (T)

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O R D E R

Heard Mr.R.Ganesh Kanna, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader for respondent.

2. The petitioner assails an order of assessment dated 04.06.2018 under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2016-2017. The assessment has been made after issuance of notice dated 01.02.2018 calling for objections from the petitioner. Admittedly, no objections had been filed. Thereafter, notice dated 12.03.2018 has been issued by the Officer affording personal hearing to appear before the Assessing Officer on 27.03.2018 with objections/ explanations for the proposals contained in the notice. This notice has been received on 22.03.2018 by one Sri.A.Soundararajan, Staff in the petitioner concern.

3. Learned counsel for the petitioner admits the position that there has been no response to the notices issued. In the light of the factual position, arguments as regards violation of principles of natural justice fail.

4. The issue on merits relates to filing of Form 'WW'. According to the petitioner, there is no necessity to file the Form insofar as the turnover is only Rs.52,30,228/- which is below the prescribed limit of Rs.1.00 crore.

5. However, Mr.Haribabu, learned Additional Government Pleader points out that the details of monthly purchase and sales for the period 01.04.2016 to 31.03.2017 reveal purchases of an amount of Rs.58,91,360/- and sales of an amount of Rs.57,46,436/-, that cumulatively work out to an amount in excess of Rs.1 crore.

6. Thus, prima facie there is no support for the statement that the petitioners' turnover is less than Rs.One crore. In fact the assessment has been made bringing to tax an amount of Rs.1,04,72,550 based on web report and raising a demand of Rs.21,77,062/- as balance of tax and penalty of Rs.10,000/-.

7. Without adverting to the merits of the matter, I believe that it would suffice in the facts and circumstances of the present case to permit the petitioner to file a statutory appeal challenging the impugned order within a period of four (4) weeks from today. Seeing as the order is dated 04.06.2018 and there is substantial delay on the part of the petitioner in addressing the same, the petitioner is put to terms. The entire tax of Rs.21,77,062/- shall be paid prior to the institution of the appeal and shall include the statutory pre-deposit for filing of the appeal. The first appellate authority shall entertain the appeal only upon confirming compliance with the terms imposed above.

8. This Writ petition is disposed of in the above terms. Connected miscellaneous petition is closed with no order as to costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rkp/sl

To
The Assistant Commissioner (State Tax),
Panruti Town, Cuddalore District.

+1 cc to Government Pleader Sr.No. 32156

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A.SK(17/05/2019)