IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 33407 of 2005

Tvl. Abacus Info Services,
139, Bypass Road,
Sivananda Colony,
Coimbatore – 641 012.
Represented by its Managing Partner,
Mrs.S.Ananthi. ... Petitioner

Vs

The Commercial Tax Officer,
Gandhipuram Circle,
Coimbatore – 641 018. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the Respondent in TNGST No.2181740/1999-2000 dated, 26.08.2002 and quash the same.

For Petitioner : Mr. N. Murali Kumaran
for M/s.McGan Law Firm

For Respondent: Mr. V. Haribabu
Additional Government Pleader(Taxes)

ORDER

Heard learned counsel for the Petitioner and the learned Additional Government Pleader for the Respondent.

2. The Petitioner had originally filed O.P.No.230 of 2003 before the Tamil Nadu Taxation Special Tribunal, Chennai-1 against the impugned distraint notice dated 26.08.2002. Pursuant to abolition of the aforesaid Tribunal, the above case was transferred to this court and renumbered as W.P.No. 33407 of 2005.

3. It is noticed that after Assessment Order dated 16.11.2001 was passed, a Revision Notice was issued to revise the order of assessment and the same date to revise the aforesaid order of assessment. According to the Petitioner without revising the assessment order dated 16.11.2001, the impugned distraint notice dated 26.08.2002 has been issued to the Petitioner.

4. The Petitioner has sent representation to the Respondent to furnish a copy of the revised order of assessment if any that may have been passed pursuant to notice dated 16.11.2001 so as to enable the Petitioner to file an appeal. Despite reminders from the Petitioner, yet another distraint notice dated 22.12.2002 has been issued to the Petitioner calling upon the Petitioner to pay a sum of Rs.91,892/-.

5. It is noticed that as per the assessment order passed on 16.11.2001 the tax due from the Petitioner was nil. In the Revision Notice dated 16.11.2001, the tax due has been shown to be Rs.42,902/-and penalty of Rs.64,353/- has been proposed to be levied at 150% under section 16 (2) (b) of Tamil Nadu General Sales Tax Act, 1959.

6. Since the Revised Order of assessment has not been served on the Petitioner, the impugned distraint notices are quashed. At the same time, the direction is issued to the Respondent pass a speaking order pursuant to Revision Notice dated 16.11.2001 within a period of 30 days from date of receipt of order after hearing the Petitioner.

7. In case already an Revised Order of Assessment has been passed but had not been communicated to the Petitioner, same shall be furnished to the Petitioner within a period of 15 days from date of receipt of this order in which case the Petitioner may file an appeal before the Appellate Commissioner within a period of 45 days from date of receipt of the said order of revision. In case, the Petitioner fails to file such appeal in accordance with law, Respondent is at liberty to issue fresh distraint notice in accordance with law.

8. The Writ petition stands allowed with the above observation. No cost.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer,
Gandhipuram Circle,
Coimbatore - 641 018.

+1cc to M/s.McGan Law Firm, Advocate Sr.104228
+1cc to the Special Government Pleader Sr.104981

W.P. No. 33407 of 2005

srg 29/01/2020