

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.33657 of 2016
and
W.M.P.No.29026 of 2016

S.Srinivasan

... Petitioner

vs.

The Commercial Tax Officer,
Velandipalayam Circle,
Chinthamani Buildings,
R.S.Puram, Coimbatore - 641 002.

... Respondent

Prayer:

Writ Petition is filed under article 226 of the Constitution of India, writ of Certiorari, to call for the records with respect impugned notice dated 18.07.2016 passed by the respondent in his proceedings in Va.V.No.33166203008/2016 and quash the same.

For Petitioner : Mr.R.Nalliyappan

For Respondent : M/s.G.Dhanamadhri
Government Advocate

सत्यमेव जयते
O R D E R

The petitioner has challenged the impugned demand notice dated 18.7.2016 issued by the respondent demanding an amount of Rs.88,23,620/- being the arrears of tax due from the petitioner for the assessment years 2007-08 to 2011-12.

2. It is the case of the petitioner that earlier notices were issued for the assessment years on 30.01.2014 and on 20.2.2014. These were challenged before this court by the petitioner in W.P.No.9353 of 2014 and W.P.Nos.9349-9352 of 2014.

3. By the said orders dated 01.04.2014, these notices were set aside and the cases were remitted back for fresh consideration by the respondent. The petitioner was directed to appear before the respondent on 16.4.2014 along with his objections and documents if any and thereafter the respondent was directed to pass a speaking order in accordance with law after hearing the petitioner in person.

4. The petitioner also appears to have given his representation on 06.06.2014 and thereafter another personal hearing was fixed on 4.7.2014 by the respondent in terms of notice dated 26.6.2014.

5. The petitioner also appeared and made submissions before the respondent on 4.7.2014. According to the petitioner, the impugned notice has been issued without passing any order after personal hearing held on 4.7.2014 pursuant to the orders dated 1.4.2014 of this Court in the above said writ petitions.

6. On merits, the petitioner submits that he had ceased to do business and his brother Manoharan surreptitiously carried on business using his registration number and therefore the petitioner cannot be saddled with liability.

7. Per contra, the learned standing counsel for the respondent submits that pursuant to a personal hearing held on 4.7.2014, orders were passed on 5.8.2014 but the petitioner, however, failed to receive the same and it is only thereafter the impugned recovery notice has been issued.

8. I have considered the arguments of the learned counsel for the petitioner and the respondent. The petitioner has taken undue advantage by prolonging the litigation by challenging the notices earlier and thereafter by filing the present writ petition and thereby has blocked the recovery arrears of tax.

9. All the same, the petitioner's request to challenge the assessment order dated 5.8.2014 pursuant to orders dated 1.4.2014 of this Court and the personal hearing held on 4.7.2014 is considered favourably by permitting the petitioner to file an appeal within 30 days from date of receipt of this order. If such appeal is filed before the appellate authority within such time in accordance with law, the appellate authority shall dispose the same within a period of two months from the date of

filing of such appeal of the following principles of natural justice and in accordance with law.

10. The learned counsel for the respondent has furnished copy of the order(s) dated 05.08.2014 to the counsel for the petitioner to facilitate the petitioner to file an appeal before the appellate authority.

11. Accordingly, the writ petition stands allowed with the above observations. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

jas/kkd

To

The Commercial Tax Officer,
Velandipalayam Circle,
Chinthamani Buildings,
R.S.Puram, Coimbatore - 641 002.

+1cc to Mr.R.Nalliyappan, Advocate, S.R.No.104572

+1cc to the Special Government Pleader, S.R.No. 105014

W.P.No.33657 of 2016
and

W.M.P.No.29026 of 2016

AK(CO)
CS/06/02/2020

सत्यमेव जयते

WEB COPY