

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.29237 of 2019

and

W.M.P.No.29038 of 2019

Tvl.Kajah Beedi Sales Depot
Represented by its partner
K.Faizal Rahiman

...Petitioner

vs.

1.The Commissioner of Commercial Taxes
O/o. The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk
Chennai-600 005.

2.The State Tax Officer
Arisipalayam Circle
Commercial Taxes Office
Mayyanur Main Road,
Salem - 636 009.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the 2nd respondent in TIN.33402841923/2011-2012 dated 25.04.2019 and quash the same.

For Petitioner : Ms.S.Meenakshi

For Respondents : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondents. By consent of both the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the proceedings of the second respondent dated 25.04.2019 imposing penalty on the petitioner.

3. It is seen that the petitioner has already paid the tax liability and the interest at the time of inspection. Now, the impugned proceedings is in respect of the penalty payable by the petitioner. Whether the petitioner is liable to pay the penalty or not, is the question that needs to be considered and decided only by the next fact finding authority, as this Court is not expressing any view at this stage. It is further seen that an appellate remedy is available to the petitioner by filing an appeal before the concerned Appellate Authority as against the present impugned order. Therefore, it is for the petitioner to work out such remedy by filing such an appeal before the concerned Appellate Authority.

4. Accordingly, without expressing any view on the merits of the matter, this Writ Petition is disposed of, by granting liberty to the petitioner to file such an appeal before the concerned Appellate Authority by raising all the contentions. Such appeal shall be filed within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the concerned Appellate Authority shall consider the same on its own merits and pass orders in accordance with law, without reference to the period of limitation. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

mk

To

1. The Commissioner of Commercial Taxes
O/o. The Principal and Special Commissioner of
Commercial Taxes, Ezhilagam, Chepauk
Chennai-600 005.
2. The State Tax Officer
Arisipalayam Circle
Commercial Taxes Office
Mayyanur Main Road,
Salem - 636 009.

Copy to
The Section Officer
ER Section
High Court, Madras 104.
(To return Original impugned order to the Petitioner)

+1 CC to Spl. Govt. Pleader(T) sr 86151
+2 Ccs to Mr.M. Vijayanand, Advocate sr 85646.

W.P.No.29237 of 2019

NRL (CO)
SP (05/11/2019)



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