IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.11.2019

CORAM

THE HONOURNABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.30902 of 2019
and
W.M.P.No.30990 of 2019

Tvl.R.K.R.Gold Bullion Private Limited,
represented by its Director,
S.V.Sreenivasen,
No.569/2, 1st Floor
Raja Street,
Coimbatore - 641 001. ...Petitioner

Vs.

The Assistant Commissioner (ST)
R.G.Street Assessment Circle,
Coimbatore - 641 001 ...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the files of the respondent in TIN No.33781763462/2016-17 (A.G.AA06/17-18) dated 15.04.2019 and quash the same as being without jurisdiction and authority of law and contrary to the principles of natural justice.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.M.Hariharan
Additional Government Pleader (T)

O R D E R

This Writ Petition is filed challenging the order of the respondent dated 15.04.2019, relevant to the assessment year 2016-17, wherein and whereby, the petitioner was imposed with tax liability of Rs.2,37,398/- and penalty of Rs.1,18,699/-.

2. The Assessing Officer has passed the impugned order on the reason that the petitioner has not filed supportive documents along with the reply submitted in response to the notice of proposal. It is the case of the petitioner that after the impugned order was passed, the bank account was attached and a sum of Rs.1,47,000/-has been recovered from the petitioner by

the respondent. It is further contended that the petitioner has all the necessary particulars and in fact, after receipt of the impugned order, they sent a communication on 07.05.2019 along with all those necessary particulars including debit note and proof of return of cheque from the Bank and sought for revising the order dated 15.04.2019. Therefore, the learned counsel for the petitioner submitted that the Assessing Officer may be directed to reconsider the whole issue based on the communication sent on 07.05.2019 along with necessary particulars.

3. Learned Additional Government Pleader submitted that even though sufficient opportunity was given, the petitioner was not in a position to furnish the supportive documents and therefore, the Assessing Officer is left with no other option except to pass the impugned order.

4. Perusal of the impugned order would show that the Assessing Officer has chosen to confirm the proposal only on the reason that the petitioner has not filed any supportive documents. Now, it is stated that the petitioner through communication dated 07.05.2019 furnished those supportive documents, no doubt, after the impugned order. However, since it is an admitted fact that a considerable sum, namely Rs.1,47,000/-, is recovered, out of the total liability payable by the petitioner, this Court is of the view that one more opportunity may be given to the petitioner to prove his case before the Assessing Officer. Accordingly, the Assessing Officer is directed to treat the communication sent by the petitioner dated 07.05.2019 as the one under Section 84 of TNVAT Act, 2006 and pass orders on the same on merits and in accordance with law, after verifying the documents filed in support of such communication, also by taking note of the fact that a sum of Rs.1,47,000/- was already recovered from the petitioner. Such exercise shall be done by the Assessing Officer within a period of four weeks from the date of receipt of a copy of this order, after giving an opportunity of hearing to the petitioner. The Writ Petition is disposed of, accordingly. In view of the order passed in this writ petition, the Bank attachment made already, if any, shall be lifted forthwith. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

The Assistant Commissioner (ST)
R.G.Street Assessment Circle,
Coimbatore - 641 001

+1 CC to Mr.R.Senniappan, Advocate sr 95827
+1 CC to The Spl. Govt. Pleader(T) sr 96145

W.P.No.30902 of 2019

RSV(CO)
SP(09/12/2019)