IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Review Petition No.246 of 2018
in Writ Appeal No.1129 of 2018

B.Suseel Kumar,
Joint Commissioner (CT),
Tirunelveli Division, AR Lane Road,
Palayamkottai, Tirunelveli-2,
Now @
Joint Commissioner (CT),
Chennai (Central) Division,
Chennai. .. Review Petitioner/Appellant

-vs-

1.The Govt. of Tamil Nadu,
Rep., by its Secretary to Government,
Commercial Taxes Department,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Principal Secretary/Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk,
Chennai-600 005. .. Respondents/Respondents

Review Petition filed under Order 47 Rule 1 read with Section 114 of Civil Procedure Code, 1908 to review the judgment dated 23.07.2018 made in W.A.No.1129 of 2018.

For Petitioner	:	Mr.V.Prakash, Senior Counsel assisted by Mr.K.Krishnamoorthy
For Respondents	:	Mr.M.Hariharan, Additional Govt. Pleader (Taxes)

******

ORDER

(Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.V.Prakash, learned Senior Counsel, assisted by Mr.K.Krishnamoorthy, learned counsel for the petitioner; and Mr.M.Hariharan, learned Additional Government Pleader (Taxes) for the respondents.

2.This review petition has been filed to review the judgment in W.A.No.1129 of 2018 dated 23.07.2018.

3.It is pointed out by the learned counsel for the petitioner that on account of inadvertence when the appeal was heard by the Hon'ble Division Bench, the appellant did not point out a glaring error in the order passed by the learned Single Bench more particularly, in paragraph 37 of the order, which has no relevance to the case on hand and it refers to some other charge memo. Therefore, it is submitted that an opportunity should be granted to the petitioner to canvass this point and for which purpose, the review petition may be allowed and the appeal may be re-heard on merits.

4.Though it may be true that paragraph 37 of the order passed in the writ petition does not pertain to the facts of the present case, yet the said paragraph is an isolated incident and that cannot by itself be a reason to hold that the entire decision of the learned Single Bench is flawed. The Division Bench considered the matter at length and has passed a judgment.

5.As rightly pointed out by the learned Senior Counsel for the petitioner in paragraph 6 of the judgment, the Hon'ble Division Bench has pointed out that the learned Single Bench has elaborately examined the factual circumstances in the light of various judgments and having found the procedural lapses are said to have been committed by the petitioner, directed to proceed with the enquiry proceedings and conclude the same by providing opportunity to the petitioner as per the rules and pass final orders within a period of six months.

6.It is the submission of the learned Additional Government Pleader that after the judgment by the Division Bench, an Enquiry Officer has been appointed which appointment was challenged by the petitioner by filing a writ petition, which was dismissed and a writ appeal has been preferred. It is submitted by Mr.V.Prakash, learned Senior Counsel that during the pendency of this proceedings, in the year 2015, the petitioner has been promoted and his promotion should not be disturbed.

7.In our considered view, a review petition can be entertained only if the petitioner is able to point out an error which is apparent on the face of the record. The error should be so glaring that no long-drawn reasoning is required for the Court to find out the error. The settled legal position is that a review petition is not an appeal in disguise. Thus, in our considered view, the petitioner has not made out any case to review the judgment passed by the Division Bench.

8.Accordingly, this review petition is dismissed. However, the dismissal of this review petition will not in any manner prejudice the defence that the petitioner proposes to raise in the enquiry proceedings or before any other appropriate forum.

9.So far as the argument of the learned Senior Counsel for the petitioner that the promotion granted to the petitioner should be protected is concerned, unfortunately, in this review petition, we cannot make any observation and it is open to the petitioner to contest the same before the appropriate forum. No costs.

(T.S.S., J.) (M.D.I., J.)
12.04.2019

Index : Yes/No
Speaking/Non-Speaking Order

abr

To

1.The Secretary to Government,
The Govt. of Tamil Nadu,
Commercial Taxes Department,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Principal Secretary/Commissioner of
Commercial Taxes,
Ezhilagam, Chepauk, Chennai-600 005.

T.S.Sivagnanam, J.
and
M.Dhandapani, J.

(abr)

Review Petition No.246 of 2018
in Writ Appeal No.1129 of 2018

12.04.2019