BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.23980 of 2019
and
W.M.P.(MD).No.20591 of 2019

M/s.K.M.Rafi & Company
rep. By its Proprietor
Mr.M.Rafi Ahamed ... Petitioner

Vs.

The Commercial Tax Officer-(Main),
Tuticorin-III Assessment Circle,
Tuticorin. ... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified mandamus, to call for the records of the respondent in TIN.33605922533/2013-14 dated 05.06.2017 and quash the same with a direction to the respondent to re-do the assessment by affording an opportunity of personal hearing to the petitioner and to consider the objections filed supported by relevant documents with proper application of mind.

For Petitioner : Mr.P.Raj Kumar
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

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ORDER

Mrs.J.Padmavathi Devi, learned Special Government Pleader takes notice for the respondent.

2. By consent of both sides, the writ petition is taken up for final disposal.

3.According to the petitioner, he was issued with revision notice on 27.04.2017 for the assessment year 2013-14. The petitioner filed his objections on 25.05.2017. The Assessing Authority passed the assessment order on 05.06.2017. While passing the assessment order, the opportunity of personal hearing was not given to the petitioner. However, in respect of assessment years 2014-15 and 2015-16, the petitioner filed appeals and they were partly allowed and that the appeal against the assessment year 2013-14 alone was not filed. The person who was handling the matter is no more and he died on 07.09.2019. The petitioner got knowledge about non-filing of appeal only after the receipt of recovery order passed by the respondent dated 18.10.2019. Since the person handling the sales tax is no more, the petitioner is handicapped and could not ascertain the reason on which the appeal was not filed.

4.Considering the factual circumstances, this Court is inclined to permit the petitioner to file an appeal against the assessment order dated 05.06.2017, for the assessment year 2013-14 within a period of two weeks from the date of receipt of a copy of this order on condition that the petitioner makes a deposit of 40% of tax. On such appeal being filed within two weeks on payment of 40% of the tax, the respondent is directed to consider the appeal without insisting on limitation point and to dispose of the same within a period of four weeks thereafter.

5.Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

The Commercial Tax Officer-(Main),
Tuticorin-III Assessment Circle,
Tuticorin.

+1 CC to M/s.P.RAJKUMAR, Advocate (SR-98143[F] dated 14/11/2019)

+1 CC to M/s.GP (SR-99010[F] dated 18/11/2019)

Copy to:
The Section Officer,
E.R. Section,
Madurai Bench of Madras High Court,
Madurai.

W.P(MD)No.23980 of 2019
14.11.2019

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