

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.47655 OF 2006

AND

M.P.NO.2 OF 2006

TV1.Thangam Lottery Agency,
rep.by its Proprietor A.Kalyanasundaram,
Thanjavur Road, Tiruvarur.

... Petitioner

Vs.

1. The Tamilnadu Sales Tax Appellate Tribunal,
rep.by its Secretary, City Civil Court Buildings,
II Floor, High Court Campus, Chennai - 600 104.
2. The Appellate Assistant Commissioner (CT),
C.T.Buildings, Sachidananda Moopnar Road,
Thanjavur.
3. The Deputy Commercial Tax Officer,
Tiruvarur.

.... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the 1st respondent in STA No.739 of 2001 dated 20.01.2006 and the consequential revised order passed by the 3rd respondent in TNGST 3920410/96-97 dated 31.05.2006 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.Hariharan, AGP (T)

ORDER

According to the petitioner, they are the dealer in lottery tickets and assessee on the file of the third respondent. In respect of the assessment year 1996-97, they filed its returns, reporting a total and taxable turnover of Rs.19,20,680/-. After scrutiny of the same and based on the inspection report, the third respondent passed an assessment order on 15.03.1999, determining tax on a total and taxable turnover of Rs.31,55,746/-. Challenging the same, the petitioner preferred

an appeal before the second respondent, who vide order dated 02.05.2000, partly allowed the said appeal, against which, the department filed an appeal in STA.No.739 of 2001 before the first respondent Tribunal. On 20.01.2006, when the appeal was taken up for consideration, the petitioner was not represented by its counsel and hence, the appeal was allowed exparte. Contending that the first respondent without considering the various facts admitted by the second respondent, has decided the issue in favour of the department, the petitioner filed an application as early as in May 2006, to set aside the exparte order passed in the appeal and restore the appeal on file. During the pendency of the same, the third respondent passed a revised assessment order dated 31.05.2006, based on the exparte order passed by the first respondent in STA.No.739 of 2001. Aggrieved over the same, the petitioner has come up with this writ petition.

2.Today, when the matter was taken up for consideration, the learned counsel for the petitioner, on instructions, submitted that it would suffice, if a direction is given to the first respondent to dispose of the application filed by the petitioner in TMP.No.82 of 2007 within a time frame to be stipulated by this Court.

3.The learned Additional Government Pleader (T) appearing for the respondents has no serious objection for granting such relief to the petitioner.

4.Considering the facts and circumstances of the case and having regard to the relief now sought by the learned counsel for the petitioner, which has not been seriously opposed on the side of the respondents, this Court directs the first respondent to dispose of the petition in TMP.No.82 of 2007, if not already disposed of, on merits and in accordance with law, after affording due opportunity of personal hearing to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the third respondent shall not take any steps for recovery of tax from the petitioner, pursuant to the order impugned herein.

5.Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1. The Secretary,
The Tamilnadu Sales Tax Appellate Tribunal,
City Civil Court Buildings,
II Floor, High Court Campus,
Chennai - 600 104.
2. The Appellate Assistant Commissioner (CT),
C.T.Buildings, Sachidananda Moopnar Road,
Thanjavur.
3. The Deputy Commercial Tax Officer,
Tiruvarur.

+1cc to Mr.K.Soundararajan, Advocate, S.R.No.24385
+1cc to the Special Government Pleader, S.R.No.24019

W.P.No.47655 of 2006
and
M.P.No.2 of 2006

KS (CO)
CS/17/07/2020



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