IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.4269 of 2020
and WMP No.5053 of 2020

"SIGNATURES EXTERIOR SOLUTIONS"
A Partnership Firm represented by its Proprietor,
Shri K.Thiyagrajan, No.128-B-2,
Co-op Colony, Mohanur Road,
Namakkal - 637 001. .... Petitioner

Vs.

The Assistant Commissioner (State Tax), Office,
Namakkal, Rural, Namakkal. .... Respondent

PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorari calling for the records relating to the impugned notice dated 08.04.2019 issued bearing No.Nak.Na.751/2018/A3 issued by the respondent herein namely the Assistant Commissioner (State Tax), Office Namakkal, Rural, Namakkal and quash the same as non-est in the eye of law.

For Petitioner : Mr.K.S.Govinda Prasad

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

ORDER

Mr.M.Hariharan, learned Additional Government Pleader (Taxes) accepts notice for the respondent.

2. Heard learned counsel for the petitioner and learned counsel for the respondent.

3. By consent expressed by both learned counsel and in the light of the limited lis arising in this matter, the writ petition is taken up for final disposal at this stage itself.

4. The challenge is to a recovery notice dated 08.04.2019, which itself is belated. The impugned notice calls upon the petitioner to remit the disputed demands of tax and penalty for the periods 2013-14 and 2014-15. These disputed demands of tax and penalty arise from orders of assessment passed in terms of

the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') dated 14.12.2017.

5. Admittedly, these orders have been served upon the petitioner in time and no action has been taken as against the same. Thus there is no infirmity in the efforts for recovery. Be that as it may, the petitioner, after receipt of the impugned notice, has been in correspondence with the Department and also appears to have filed a police complaint against various employees for misuse of TIN number. Thus, the petitioner prays that he be permitted to challenge the orders of assessment at this juncture. I also note that the Registration of the petitioner has also been cancelled under communication dated 20.11.2017.

6. Upon consideration of the above facts, and recording the concurrence of Mr.M.Hariharan, learned Additional Government Pleader to the suggestion that appeals may be filed by the petitioner before the first appellate authority that may be taken on file and disposed on merits without reference to limitation, I accept the request of the petitioner in this regard. The petitioner is permitted to file statutory appeals challenging orders of assessment and penalty dated 04.12.2017 for the periods 2013-14 and 2014-15. If the appeals are filed within a period of two (2) weeks from today, the same shall be received by the Registry of the first appellate authority without reference to limitation only but after ensuring that all other requirements including statutory deposit are complied with. The appeals shall thereafter be taken up and disposed after hearing the petitioner, as expeditiously as possible.

7. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner (State Tax), Office,
Namakkal, Rural, Namakkal.

+1 cc to M/s.K.S.Govinda Prasad,Advocate Sr.No. 15269
+2 cc to M/s.M.Babu, Advocate Sr.No.15743
+1 cc to The Government Pleader Sr.No.15855

AKM/24.02.2020/2P-6C / Writ Petition No.4269 of 2020
and WMP No.5053 of 2020