IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.25768 of 2012
and
M.P.No.1 of 2012

Fisherman's Cove,
Represented by its General Manager,
P.Parameshwaran, Kovalam,
Chengalpattu, Chengalpattu District. ... Petitioner

vs

The Assistant Commissioner (CT),
Chengalpattu Assessment Circle,
Chengalpattu. ... Respondent

Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorari, to call for the records on the files of the respondent herein in his LT 257/2010-11 dated 31.07.2012 and to quash the same.

For Petitioner : Mr.N.Inbarajan

For Respondent : Mr.R.Swarnavel
Government Advocate (T)

O R D E R

Heard the learned counsel for the petitioner and the respondent.

2.The short point that arises for consideration in the present Writ Petition is whether the respondent was justified in imposing penalty in the nature of interest under Section 8(d) of the Tamil Nadu Tax on Luxury Act, 1981?

3.The petitioner had originally filed a return under the provision of the aforesaid Act declaring a taxable turnover of Rs.37,46,55,464/- and had paid a sum of Rs.4,68,27,808/-. Later suo moto, the petitioner filed the revised return and paid another sum of Rs.20,61,508/- by declaring a taxable turnover of Rs.41,17,95,120/-.

4.Under these circumstances, the impugned order has been passed wherein a sum of Rs.13,01,309/- has been imposed as penalty under Section 8(d) of the Tamil Nadu Tax on Luxury Act, 1981. The impugned order has not discussed as to how the penalty in the form of interest has been levied even though the said provision seems to indicate that there is some amount of discretion vested with the officer while imposing penalty under the said provision. It appears that no notice was also issued to the petitioner before the impugned order was passed. Further, the impugned order is also non-speaking.

5.Under these circumstances, the impugned order is set aside and the case is remitted back to the respondent to pass a fresh order within a period of three months from the date of receipt of a copy of this order in accordance with law.

6.The impugned order shall be treated as a show cause notice. The petitioner may file a reply, if desire, within a period of thirty days from the date of receipt of a copy of this order. It is made clear that before passing denovo order, the petitioner shall be heard by the respondent.

7.The present Writ Petition stands allowed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jen

To

The Assistant Commissioner (CT),
Chengalpattu Assessment Circle,
Chengalpattu.

+1cc to Mr.N.Inbarajan, Advocate sr.3069
+1cc to Special Government Pleader(Taxes) sr.3596

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rsv(co)
nr 03/03/2020