

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.40786 and 40787 of 2015

and

W.M.P. Nos. 1 & 1 of 2015

M/s. Surya Service Station,
Hindustan Petroleum Dealer,
Rep. by K.E. Rehmath,
Palloor, Mahe, Pondicherry State.

... Petitioner in W.P. No.40786 of 2015

M/s. Mahe Auto Fuel Enterprises,
Bharath Petroleum Dealer,
Rep. by its Proprietrix K.E. Rehmath,
Poozhithala, Mahe,
Pondicherry State.

... Petitioner in W.P. No.40787 of 2015

Vs.

The Commercial Tax Officer,
Mahe, Pondicherry

... Respondent (In both petitions)

Common Prayer: Writ Petitions are filed under article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondent to furnish the documents requested by the petitioner as per the representations dated 21.04.2014 and 23.01.2015 for enabling the petitioner to appear and give proper explanation to the notices dated 19.10.2015 issued by the respondent made in respect of the assessment years 1994-95, 1995-96 and 2000-2001 respectively.

For Petitioner (In both W.Ps.) : Mr.Raja Srinivas for
Mr.K.P.Jotheeswaran

For Respondent (In both W.Ps.) : Mr. J. Kumaran
Additional Govt. Pleader (Pondy)

C O M M O N O R D E R

By this common order, both the writ petitions are being disposed.

2.The learned counsel for the petitioner submits that both the petitioners are proprietary concerns of which the deponent Mrs. K.E. Rahmeth is the proprietrix.

3. It is submitted that though the respective proprietary concerns were registered in the name of the proprietrix, she was not concerned with day-to-day affairs. The business of the respective petitioner were taken care by proprietrix's late husband who died in the year 2009.

4. It is submitted during his life time, W.P. No.8128, 8116 of 8115 of 2001 were filed but were dismissed for non-prosecution and steps were taken to restore the same. However, there are no records to substantiate if any steps were taken to restore these writ petitions.

5. The respective petitioner has been repeatedly asking time for producing document and to appear before the respondent stating that the dismissed the above mentioned writ petitions would be restored and disposed favourably. She also stated that the books were not traced and therefore sought time for appearance and production of the documents before the respondent for the purpose of assessment.

6. The learned counsel for the petitioners submitted that since the proprietrix's husband died in the year 2009, she has no documents and is therefore unable to produce any of the documents for the purpose of assessment.

7. Per contra, the learned counsel for the respondent submits that all the records were available with the petitioner. The petitioner has been dragging the proceedings by taking time repeatedly by stating that the dismissed writ petitions would be restored in due course.

8. I have heard the learned counsel for the petitioners and the respondent.

9. Since the dispute pertains to assessment years 1993-94, 1994-95, 1995-96 and 2000-2001 respectively, the respondent is directed to furnish available documents to the petitioner within a period of 30 days from the date of receipt of copy of this order.

10. In case there are no documents available with the respondent, respondent is directed to inform the petitioner about the same before taking up the case for hearing and passing appropriate orders.

11. It is open to the petitioner to file replies/representation and furnish the documents which the petitioner had promised to file before the respondent for the purpose of assessment.

12. The respondent is therefore directed to complete the proceedings within a period of three months from the date of receipt of a copy of this order in accordance with law. The writ petitions stands allowed with the above observations.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

lbm

To:

The Commercial Tax Officer,
Mahe, Pondicherry.

+1cc to Mr.K.P.Jotheeswaran, Advocate, S.R.No. 792

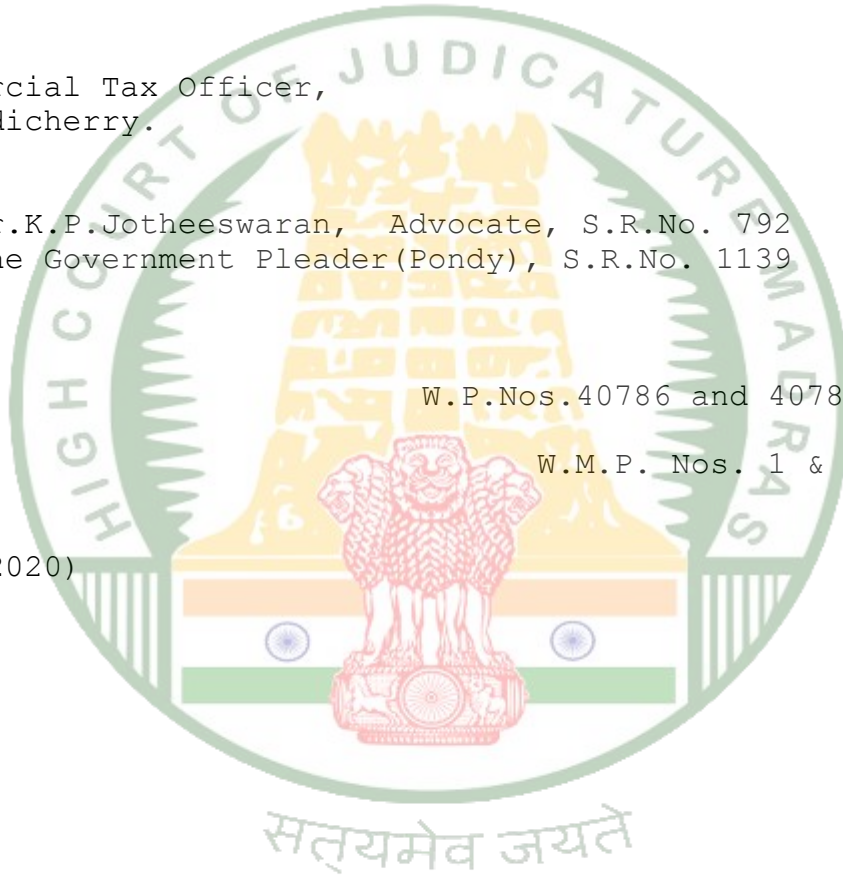
+1cc to the Government Pleader(Pondy), S.R.No. 1139

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and

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VSN II (CO)
GN(28/02/2020)



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