IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P. No. 44415 of 2016
and
W.M.P. Nos. 38264 & 38265 of 2016

Thavamani ... Petitioner

Vs

The Deputy Commercial Tax Officer,
Office of Commercial Tax Officer,
Kallakurichi. ... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records on the file of the Respondent in Na.Ka.No.A3/185/2016 dated 25.11.2016 to quash the same.

For Petitioner : No appearance

For Respondent : Mr. A.N.R. Jayaprathap
Government Advocate (Tax)

ORDER

The Petitioner has challenged the Impugned Revenue Recovery Proceedings in Na.Ka.No.A3/185/2016 dated 25.11.2016.

2. The Petitioner is wife of Late R. Chennan. He had obtained VAT Registration on 22.07.2011 and was doing business as a cement dealer. It appears that for the Assessment Year 2011-2012, the Petitioner had declared the purchase of Rs.8,58,800/- and filed a nil return in Form-l-1 pursuant to the demand. Subsequently, it was found out that, the Petitioner's late husband had purchased cement from Tvl.Vijay Cements for value of Rs.13,74,256/- but wrongly declared the purchase turnover as Rs.8,46,500/- to avoid tax.

3. Under these circumstances, a notice dated 09.02.2015 was issued with the Petitioner's late husband followed by another

notice dated 19.06.2015 as he failed to file objections. A personal hearing was also fixed (for the hearing) on 03.09.2015. Unfortunately, after the hearing was fixed, on 14.09.2015, the Petitioner's husband passed away and therefore in the absence of any reply on behalf of the Petitioner's late husband, the impugned Assessment Order came to be passed on 28.09.2015.

4. The Petitioner states that she was unaware of the alleged tax liability incurred by her husband during his life time in the business carried by him in the name and style of RKC Agency.

5. At the time of admission of the present Writ Petition, a Conditional Order was passed by directing the Petitioner to deposit a sum of Rs.1,00,000/-.

6. The learned counsel for the Revenue also confirms that the Petitioner has paid the same.

7. Considering the over all facts and circumstances of the case, I am inclined to give partial relief to the Petitioner by directing the Petitioner to file appeal within a period of 45 days from the date of receipt of a copy of this order. The amount already deposited by the Petitioner pursuant to the Interim Order dated 31.01.2017 shall be treated as sufficient for the purpose of pre-deposit by the Petitioner.

8. All the Revenue Recovery Proceedings shall be kept in abeyance, by the respondent pending disposal of the appeal. Since there is no representation for the Petitioner today in the Court, the Respondent is directed to serve copy of this Order on the Petitioner so that the Petitioner can avail the benefit of alternate remedy before the Deputy Appellate Commissioner under Section 51 of the Tamil Nadu Value Added Tax Act,2006 against the Assessment Order dated 28.09.2015.

9. Accordingly, the Writ Petition stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

10. The Respondent shall also furnish all the required documents to the Petitioner, who is unable to file a proper appeal before the Deputy Appellate Commissioner.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

arb

To

The Deputy Commercial Tax Officer,
Office of Commercial Tax Officer,
Kallakurichi.

+1cc to M/s Va.Vu.Si.Vazhakagam, Advocate, Sr.No.17294
+1cc to Special Government Pleader(Taxes), Sr.No.16932

W.P. No. 44415 of 2016
and
W.M.P. Nos. 38264 & 38265 of 2016

KJ(CO)
GS(27/05/2020)