IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.16108 of 2020
and WMP.No.20080 of 2020

M/s.C.Ramakrishna Padayatchi
Rep by its Proprietor MR.C. Ramakrishnan
A. Melmampattu, Panruti Taluk, TamilNadu- 607103.
.. Petitioner

Vs

The Commercial Tax Officer,
Panruti Rural, Panruti. …Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus, to call for the records of the respondent in TIN 33154500033/2016-17 dated 13.6.2017 quash the same and direct the respondent to pass orders afresh without being influenced by the enforcement wing report.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.Swarnavel,
Government Advocate

****

ORDER

The petitioner has sought a writ of certiorari quashing order of assessment dated 13.06.2017 passed in terms of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2016-17.

2. The writ petition is delayed and when questioned, learned counsel for the petitioner would refer to an additional typed set filed by him enclosing medical records to evidence that the petitioner has been in need of medical attention since 2017. Though the first document filed of the Heart Care Clinic

is dated 17.11.2018, learned counsel would state that the petitioner, sole proprietor, was unwell and in need of medical attention even prior thereto. The petitioner was put to terms and directed to remit the full amount of disputed tax as a pre-condition to consider any further orders in this regard.

3. Today, Mr.Swarnavel, learned Government Advocate would confirm that the entirety of the disputed tax is remitted.

4. Even on merits impugned order of assessment proceeds on the basis of an inspection conducted in the premises of the petitioner in 2016. The supporting material in regard to the alleged stock difference does not appear to have been supplied to the petitioner. On all fours, this would be an appropriate matter to be set aside for re-consideration, particularly since the petitioner has also complied with the direction of the Court to remit the entire disputed tax.

5. Mr.Swarnavel expresses no serious objection to the suggestion of the Court that the impugned order may be set aside and the matter remitted to the file of the Assessing Officer for de novo consideration. The impugned order is thus set aside.

6. The petitioner will appear before the Assessing Authority on Tuesday, the 15th of December, 2020 at 10.30 a.m. without awaiting any further notice in this regard. After supplying the petitioner with any material proposed to be relied upon by the respondent, the petitioner shall be heard and an order of assessment de novo shall be passed within a period of four (4) weeks from date of first personal hearing. The hearings shall be conducted either physically or virtually as may be mutually convenient to the parties.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sl

To

The Commercial Tax Officer,
Panruti Rural, Panruti.

Page numbers

+1cc to Mr.V.Sundareswaran, Advocate SR.38629
+1cc to Spl Govt.Pleader(Taxes) SR.38815

W.P.No.16108 of 2020
and WMP.No.20080 of 2020

MJB(CO)

CB(05/01/2021)

Page numbers