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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11504 of 2004
and W.P.M.P.No.13533 of 2004
and W.V.M.P.No.2333 of 2005

M/s.Kerala Small Industries Development
Corporation Ltd.,
Post Box No.16,
Gandhi Nagar,
Kochi 682 020. ..Petitioner

Vs.

1.The Deputy Commercial Tax Officer – III,
Thoothukudi.

2.The State of Tamil Nadu,
rep. by its Deputy Commissioner (CT),
Tirunelveli Division,
Tirunelveli. ..Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent in CST:472870/82-83, quash the impugned proceedings dated 26.02.2004.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.V.Nanmaran
(Government Advocate)

ORDER

The relief sought for in the present Writ Petition is to quash the impugned proceedings of the 1st respondent dated 26.02.2004.

2.The learned counsel for the petitioner made a submission that the petitioner has already paid tax as applicable. With reference to the penalty portion, the learned counsel for the petitioner states that the Deputy Commercial Tax Officer passed the impugned order without considering the objections as well as the judgment of the High Court and Hon'ble Supreme Court. In this regard, the petitioner submitted a detailed representation to the 1st respondent on 01.03.2004 and even prior to that, the

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petitioner submitted his objections on 19.02.2004. Neither the objections filed before issuing the impugned order, nor the representation submitted subsequent to the impugned order are considered by the 1st respondent with reference to the principles already adjudicated and concluded. In view of the efflux of time of more than 17 years, this Court is not inclined to go into the merits of the case with reference to the records available with the respondents. However, the learned counsel for the petitioner reiterated that the petitioner is a Small Industries Development Corporation owned by the State of Kerala and they are struggling even to run the small industries in the State and therefore, the authority must consider the objections as well as subsequent representations with reference to the facts as well as the legal position explained by the petitioner.

3.The grievance of the petitioner is that both the facts and legal provisions elaborated in their representation are not considered. In view of the facts and circumstances, the 1st respondent/ Deputy Commercial Tax Officer-III, Thoothukudi is directed to consider the representation submitted by the writ petitioner on 01.03.2004 and by affording opportunity to the writ petitioner and personal appearance, if any request is made, and pass orders on merits, as expeditiously as possible and within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner is directed to enclose all the relevant documents as well as the judgments relied upon along with the order passed in this Writ Petition. The petitioner is at liberty to submit their demands or representations, raising additional grounds, if otherwise.

4.With these directions, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

gsa

To

1.The Deputy Commercial Tax Officer – III,
Thoothukudi.

2.The Deputy Commissioner (CT),
Tirunelveli Division,
Tirunelveli.

+1cc to Mr.V.Sundareswaran, Advocate SR.No. 29106

+1 cc to Government Pleader Sr.No. 29340

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RLD(CO)

B.VC(22.07.2021)

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