IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE C.SARAVANAN

W.P.Nos.10913 to 10915 of 2018
and
W.M.P.Nos.12840 & 12842 of 2018

Tvl.KE VEE ARR & Co,
Represented by its Partner,
K.V.Ranganathan,
Old No.173-B, (New No.440-B),
Main Road, Palacode - 636 808,
Dharmapuri District. ...Petitioner in all W.Ps.

Vs.

The Commercial Tax Officer,
Now Designated as State Tax Officer,
Palacode Assessment Circle,
Palacode - 636 808,
Dharmapuri District. ...Respondent in all W.Ps.

PRAYER in W.P.No.10913 of 2018:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the files of the respondent in TIN:33233290981/2009-10 dated 02.05.2016 and quash the same.

PRAYER in W.P.No.10914 of 2018:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the files of the respondent in TIN:33233290981/2010-11 dated 02.05.2016 and quash the same.

PRAYER in W.P.No.10915 of 2018:- Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records on the files of the respondent in TIN:33233290981/ROC.No.392 of 2018 dated 27.03.2018 and connected proceedings in TIN:33233290981/2011-12 dated 27.11.2014 and quash the same.

For Petitioner (in all W.Ps.)	:	Mr.R.Senniappan
For Respondent (in all W.Ps)	:	Mr.R.Swarnavel Government Advocate

C O M M O N O R D E R

At the time of the admission of these writ petitions, the petitioner was directed to deposit 50% of the amount by an order dated 27.04.2018. Since there was no compliance, by an order dated 06.07.2018, Writ Miscellaneous Petitions for interim stay of the recovery proceedings were dismissed.

2.However, today the learned counsel for the petitioner Mr.R.Senniappan submits that the petitioner had paid the amount thereby complying with the order of this Court dated 27.04.2018. Though records indicate otherwise, as W.M.P.Nos.20043 of 2018 to 20045 of 2018 were dismissed on 06.07.2018.

3.The challenge in these writ petitions are against the impugned recovery notice and the Assessment order dated 02.05.2016 passed by the respondent, pursuant to an order dated 18.02.2015 in W.P.Nos.4219 & 4220 of 2015 which came to be disposed with the following observations:

> 3.Therefore, this Court is of the view that the impugned orders have to be set aside. Accordingly, the matter is remitted to the respondent - original authority to consider the case of the petitioner and pass orders after affording an opportunity of personal hearing on 10.30.2015 and on the said date the petitioner shall appear and explain in detail and substantiate his case. In case the petitioner fails to appear on that day, it is open to the respondent to pass orders in accordance with law by recording reasons and while passing orders, the respondent shall not be influenced by the impugned orders that are being set aside by this Court. The Writ Petitions are allowed accordingly and the impugned orders are set aside. No costs. Consequently, the connected Miscellaneous Petitions are closed.

4.The petitioner has an alternate remedy by way of appeal. The petitioner is therefore directed to pre-deposit 50% of the disputed tax along with the appeal. In case, the petitioner has already deposited 50% of the disputed tax as stated by the learned counsel for the petitioner, the respondent/Commercial Tax Officer shall issue a certificate to that effect.

5.The learned counsel for the petitioner submits that the petitioner has a certificate from the Department to prove that the petitioner had paid 50% of the disputed tax pursuant to order dated 02.05.2016.

6.The petitioner is therefore directed to file an appeal against the impugned orders dated 02.05.2016 for the respective Assessment years, within a period of 30 days from the date of receipt of a copy of this order. In case, the petitioner has already pre-deposited a sum of 50% of the disputed tax, as has been stated no further pre-deposit will be required by the petitioner.

7.The learned counsel for the petitioner seeks to return the original copy of the interim order before the Commercial Tax Officer. Registry is directed to return the certified copy of the order filed along with these Writ Petitions.

8.These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Now Designated as State Tax Officer,
Palacode Assessment Circle,
Palacode - 636 808,
Dharmapuri District.

Copy To:

The Section Officer,
ER Section,
High Court,
Madras - 104
(To return the Original Order Filed)

+1cc to Mr.R.Senniappan, Advocate, S.R.No.19431

W.P.Nos.10913 to 10915 of 2018
and
W.M.P.Nos.12840 & 12842 of 2018

GPL(CO)
RN(11/05/2021)