IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

Writ Petition No.8449 of 2021
and WMP No.9003 of 2021

M/s.Tvl.Gothi Impex
represented by its Proprietor
Sanjay Gothi
Vazhdavur Road, Kurumbapet,
Puducherry - 605 009. .. Petitioner

Vs

1. State Tax Officer,
(Formerly Commercial Tax Officer (Main.)
136, 137 Nehru Street, Tindivanam,
Tamil Nadu - 604 001.

2. Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.

3. Government of Tamil Nadu,
representated by its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai - 600 009. …Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus calling for the records in order dated 05.02.2021 TIN - 33974788682/2013-14 issued by respondent No.1 and to quash the same and consequenty direct respondent No.1 to refrain from proceeding with recovery of an amount of Rs.30,95,023/- as per Section 27(1)(a) of the Tamil Nadu Value Added Tax Act, 2006, along with penalty of Rs.46,42,534/- under Section 27(3)(c) of the Tamil Nadu Value Added Tax Act, 2006, totalling to Rs.77,37,557/- from the petitioner.

For Petitioner : Mr.Aryaman Ghulathi
For Respondents: Mr.ANR.Jayaprathap
Government Advocate

O R D E R

Heard Mr.Aryaman Ghulati, learned counsel for the petitioner and Mr.ANR.Jayaprathap, learned Government Advocate for the respondents, who has been served with the papers and is thus prepared to argue the matter finally even at the stage of admission. Hence, by consent expressed by both sides, this Writ Petition is disposed finally even at this stage.

2. The petitioner challenges an order of assessment dated 05.02.2021, passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act') for the period 2013-14. The petitioner has filed a Writ petition in W.P.No.41829 of 2016 challenging the original order of assessment passed for the same period dated 04.10.2016 and by order dated 21.02.2020, the petitioner was put to terms. There was a direction that 25% of the disputed tax should be paid within 30 days from date of receipt of that order and upon receipt of the deposit, the Assessing Authority was directed to pass appropriate orders of assessment within a period of 30 days thereafter, after considering the objections/representations filed by the petitioner.

3. The COVID-19 pandemic gripped the world immediately thereafter and hence, it appears that the matter has lost sight off and the petitioner unable to pursue the matter any further. A copy application for the aforesaid order of this Court was made only on 19.02.2021 and a copy received on 22.02.2021. The deposit of 25% has been made on 10.03.2021 within a period of 30 days from date of receipt of the order as directed by this Court in the first round of litigation.

4. In the meanwhile, it appears that the impugned order has come to be passed by the Assessing Authority, who notes that there is no compliance with the order passed by this Court. The Assessing Authority cannot be faulted for passing the impugned order. However, the interests of substantial justice have to be taken note of and in this case the order in the earlier Writ Petition has been received by the petitioner only on 22.02.2021. Though there is a delay of one year, which is attributable to the pandemic, the petitioner has complied with the condition imposed.

5. Thus the impugned order is set aside and the petitioner is permitted to file objections within a period of two (2) weeks from today. It is made clear that if this time frame is not adhered to, original order assessment dated 05.02.2021 will stand revived without further reference to the petitioner. If the petitioner does file its objections as permitted aforesaid, the Assessing Authority will consider the objections, hear the petitioner and pass orders within a period of six (6) weeks from date of receipt of objections from the petitioner.

6. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. State Tax Officer,
(Formerly Commercial Tax Officer (Main.)
136, 137 Nehru Street, Tindivanam,
Tamil Nadu - 604 001.

2. Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.

3. Government of Tamil Nadu,
represented by its Secretary,
Commercial Taxes Department,
Fort St. George, Chennai - 600 009.

+1cc to the Special Government Pleader(Taxes), S.R.No. 22012

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RR(CO)

GN(23/06/2021)