IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No. 4969 of 2016
and
W.M.P.No. 4333 of 2016

Tvl.Super Fab,
Represented by its Partner,
S.Syed Shanawaz,
C6, C15, Sidco Industrial Estate,
Mettur - 636 402. ...Petitioner

Vs

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur. ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the files of the respondent in TIN.No.33333241456/2008-09/CST.417899 dated 31.12.2015 and quash the same.

For Petitioner : Mr.R.Senniappan

For Respondent : Mr.R.Swarnavel
Government Advocate

ORDER

This is the second round of writ petition filed by the petitioner in respect of the same assessment year. Earlier a notice dated 20.01.2009 was issued to the petitioner which culminated in an assessment order dated 27.02.2009 for the assessment year 2008-2009. The petitioner challenged the aforesaid assessment order dated 27.02.2009 in W.P.No.5517 of 2009. By an order dated 22.04.2009, the writ petition was ordered and the aforesaid assessment order dated 27.02.2009 was set aside and the case was remitted back to the respondent to pass a fresh order after giving the petitioner an opportunity of being heard. The respondent was directed to pass the order taking note of section 5 of the Tamil Nadu Value Added Tax Act, 2006 and Rule 8(5)(d) of the Tamil Nadu Value Added Rules, 2007.

2. Pursuant to the aforesaid order dated 22.04.2009 of this Court, the petitioner was issued with another notice dated 31.12.2005. The petitioner was called upon to filed its objections if any against the proposal for the assessment in the office notice dated 27.02.2009 within a period of 15 days from date of receipt of the aforesaid notice.

3. The petitioner has challenged notice dated 31.12.2015 on the ground that the notice refers to an assessment order dated 27.02.2009 and therefore submits that the impugned notice was also liable to be quashed.

4. It is noticed that the petitioner actually replied to the above notice vide letter dated 20.01.2016 and sought for extension of time to submit the particulars stating that the petitioner was not in existence and that old records has to be searched and located. After sending the aforesaid letter dated 20.01.2016, curiously the petitioner has filed the present writ petition before this Court on 05.02.2016.

5. This Court has also granted interim stay while admitting this writ petition by its order dated 10.02.2016. After this writ petition was listed for final hearing, the petitioner sought for adjournment on several occasions. Finally today, the learned counsel for the petitioner made submissions. He submits that the impugned notice refers to the order which has been quashed. Opposing the relief sought for in the above writ petition, the learned counsel for the respondent/Commercial Tax Department submitted that the present writ petition was frivolous and was liable to be dismissed.

6. I have perused the impugned notice. The writ petition ought to have been dismissed in limini. The petitioner has unnecessarily dragged the proceedings in respect of assessment year 2008-2009. The petitioner has not only wasted the time of the court but has also unnecessarily choked the assessment proceeding by stating that the impugned notice refers to be assessment order dated 27.02.2009 which has been quashed by the court. The context and the content of the notice is very clear. In fact the petitioner was also aware of the implication and merely sought for time for giving reply. The writ petition was filed with a mischievous intention to get stall the assessment proceedings knowing fully well that once a writ petition is numbered and an interim order is obtained, the writ petitions are not immediately thereafter due to heavy work load. The case file of this Court also demonstrates that after the petitioner

achieved the above purpose after an interim order was passed. The case has not been listed thereafter for all these years.

7. Under these circumstances, the present writ petition is liable to be dismissed and is disposed of by directing the respondent to complete the assessment proceedings pursuant to order dated 22.04.2009 of this Court in W.P.No.5517 of 2009 within a period of 60 days from the date of receipt of this order. Petitioner is given one last opportunity to file any reply/additional representation within a period of 30 days from the date of receipt of this order.

8. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To

The Assistant Commissioner (CT),
Omalur Assessment Circle,
Omalur.

+1cc to Mr.R.Senniappan, Advocate, S.R.No.22381

+1cc to The Special Government Pleader, S.R.No.22381

W.P.No. 4969 of 2016
and
W.M.P.No. 4333 of 2016

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