IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.18935 of 2020

K.Vijayalakshmi ...Petitioner

Vs.

1.The State Tax Officer,
Cuddalore Taluk,
Assessment Circle,
Cuddalore - 607 001.

2.The Commercial Tax Officer,
Cuddalore Taluk, Cuddalore - 607 001.

3.Tvl. Abraham Industries,
TIN 33581043638,
No.15/2, Chinnaluzhandai,
2nd Street, Maduma Nagar,
Perambur, Chennai - 600 016. ...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus calling for the records and quash the impugned order of re-assessment dated 25.06.2014 passed by the 1st respondent in TIN:33204402666/2011-12 and consequential notice of assessment and demand dated 15.07.2020 issued by the 2nd respondent and consequently direct respondents 1 and 2 to raise the attachment of the property bearing New S.No.68/38 Hec. 0.20.25 in Silambinathanpettai Village, now in Kurinjipadi Taluk, Cuddalore District.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.TNC.Kaushik,
Government Advocate - R1 & R2

O R D E R

Heard Mr.D.Baskar, learned counsel for the petitioner and Mr.TNC.Kaushik, learned Government Advocate for R1 and R2.

2. This Writ petition has been instituted on 09.12.2020 challenging order dated 25.06.2014, which is an order of assessment passed in terms of Section 27 of the Tamil Nadu Value

Added Tax Act, 2006 (in short 'Act') for assessment year 2011-12. The first question that concerns me is the justification for the delay in approaching this Court. The explanation put forth is that the petitioner had not received any prior intimation and thus was not aware of the passing of the order.

3. The petitioner submits that he had shifted her business from 11/131-1, Anna Nagar, Naduveerapattu Village, Cuddalore Taluk (Address I) to 119/10, Konjikuppam Village, Marungur Post, Panruti Taluk, Cuddalore District (Address II). Both villages are in Cuddalore District. Though the respondent appears to have received information about the shifting of address, pre-assessment notice has, admittedly, been served both to Address I and Address II. The notice sent to Address I has been returned stating no such addressee, whereas the notice sent to Address II has been returned with an endorsement 'refused'. It is thus the respondent has proceeded to finalise the assessment by order dated 25.06.2014. There are no records available to show that order dated 25.06.2014 has been served upon the petitioner at Address II.

4. Be that as it may, any challenge to the impugned order of assessment on the ground of violation of principles of natural justice would fail, insofar as, admittedly, there has been an attempt to serve pre-assessment notice upon the petitioner at Address II as well. This is clear from the document placed at page 8 of compilation filed by the respondent dated 26.04.2021, wherein there is an unambiguous endorsement to the effect that the assessee has refused to accept service of the document and returned the same to the sender. Thus the respondent cannot be faulted in completing the assessment exparte.

5. I thus find no justifiable explanation put forth for the elapse of time between 2014 till date. The order of assessment has been affixed at Address I and coercive recovery proceedings initiated thereafter.

6. In the light of my conclusion that the delay between 2014 till 2020 when the Writ Petition is filed is not justifiably explained, this Writ Petition fails and is dismissed. No costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The State Tax Officer,
Cuddalore Taluk,
Assessment Circle,
Cuddalore - 607 001.

2.The Commercial Tax Officer,
Cuddalore Taluk, Cuddalore - 607 001.

+1cc to the Special Government Pleader(Taxes), S.R.No.31105

W.P.No.18935 of 2020

PMK(CO)
RVM(22/07/2021)