IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.1134 of 2022
and
W.M.P.Nos.1191, 1194 & 1195 of 2022

(Through Video Conferencing)

Tvl.K.N.N.BAJAJ,
Rep by its Proprietor,
K.N.Zenith Nataraj,
No.130, Chennaisalai,
Boganapalli Village,
Krishnagiri (post),
Krishnagiri District,
Tamil Nadu - 635 001. ... Petitioner

Vs.

1. The Commissioner Commercial Taxes,
Ezhilagam, Chennai.

2. The Assistant Commissioner (ST),
Krishnagiri Circle, Krishnagiri. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorari, calling for the record relating to the order of the second respondent in TIN No.33673505580/2012-2013 dated 10.09.2019 and quash the same.

For Petitioner : Mr.B.Ramesshkumaar

For Respondents : Mr.Richardson Wilson
Additional Government Pleader

ORDER

Mr.Richardson Wilson, learned Additional Government Pleader takes notice on behalf of the respondents.

2. The petitioner has filed this writ petition against the Impugned Assessment Order dated 10.09.2019. The case of the petitioner is that both the petitioner and the petitioner's auditor were indisposed and therefore the order which has been passed is as an Ex-parte order and liable to be set aside.

3. Opposing the prayer, the learned Additional Government Pleader for the respondents submits that the writ petition is liable to be dismissed on account of latches as there is no proper explanation forthcoming.

4. It is further submitted that the petitioner has an alternate remedy by way of an appeal before the Appellate Authority under the Provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as the TNVAT Act).

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents. I have perused the Impugned Order.

6. I am not satisfied with the reasons given in the affidavit. However, it is noticed that the petitioner has suffered an order on account of the failure on the part the petitioner, to respond to the summons dated 16.10.2017, 31.10.2017 and 05.04.2018. The respondents has passed the impugned order invoking the best judgment method and has doubled the turnover declared by the petitioner.

7. Considering the fact that the petitioner had not responded the summons issued by the respondents, I do not find any merits in the present writ petition challenging the impugned order. However, liberty is given to the petitioner to file an application for rectification of the order under Section 84 of the TNVAT Act, 2006 within the period of thirty days from the date of receipt of a copy of this order.

8. The petitioner shall file all the documents that are required for revising the impugned order. In case, such rectification application is filed by the petitioner, the respondents shall consider the same and pass appropriate orders on merits within a period of three months from the date of receipt of a copy of this order.

9. Pending disposal of the petition filed by the petitioner, the recovery proceedings in terms of the Impugned Order shall remain suspended. Meanwhile, the petitioner is directed to cooperate with the respondents. In case, the petitioner fails to file appropriate application within a stipulated time, the respondents are at liberty to proceed against petitioner in accordance with law.

10. This writ petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

rgm/arb

To

1. The Commissioner Commercial Taxes,
   Ezhilagam, Chennai.

2. The Assistant Commissioner (ST),
   Krishnagiri Circle, Krishnagiri.

+1cc to Mr.B.Ramesh Kumar, Advocate, S.R.No.5471

+1cc to the Special Government Pleader, S.R.No.6310

W.P.No.1134 of 2022
and
W.M.P.Nos.1191, 1194 & 1195 of 2022

RK(CO)
SU(25/02/2022)