IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2024

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THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

W.P.Nos.5703, 5717 & 5744 of 2024

AND

W.M.P.Nos.6312, 6316, 6321, 6323, 6355 & 6358 of 2024

M/s.R.K.Tiles & Hardwares,
Represented by its Proprietor
Mr.R.V.Viswanathan
No.62A, Nethaji Bye-pass Road,
Dharmapuri – 636 701. .. Petitioner in all WPs.

Vs

1. The Commissioner of State Tax,
Ezhilagam, Chepauk, Chennai – 600 005.

2. The State Tax Officer,
Commercial Taxes Department, Dhramapuri.

3. The Enforcement Wing Officer,
Commercial Taxes Department, Salem. .. Respondents in all WPs.

Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records relating to the passing of impugned Order bearing No.33903284356/2014-15, 33903284356/2013-14 and No.33903284356/2014-15 respectively, dated 12.12.2018 on the file of the second respondent and quash the same as being illegal, void, arbitrary and unconstitutional, barred by limitation.

For Petitioner : Mr.K.Thiyagarajan [in all WPs.]

For Respondents : Mr.V.Prashanth Kiran
Government Advocate(Tax) [in all WPs.]

COMMON ORDER

Challenging the impugned orders dated 12.02.2018, passed by the second respondent, these writ petitions have been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner has closed his business as early in the year 2017 and the petitioner also surrendered the registration certificate and the same has been cancelled with effect from 18.02.2017. It is his further submission that the recovery notice has been sent by the second respondent after lapse of several years and the impugned Order has been passed without issuance of notice to the petitioner, which is in violation of principles of natural justice. However, he would submit that he is ready to pay as sum of Rs.2,00,000/- in each case, totally a sum of Rs.6,00,000/- in all the three cases to the second respondent, if

the matter is remanded for fresh consideration by the second respondent.

3. The learned Government Advocate appearing for the respondents submitted that due notice was sent to the petitioner. However, the same was returned unserved. Therefore, the default is not on the part of the respondents. It is the petitioner, who failed to provide the correct address to the respondents. Therefore, the notice sent to the petitioner has been returned. Hence, he would submit that this matter may be dismissed with liberty to the petitioner to prefer an appeal.

4. I have given due consideration to the arguments of the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials placed before this Court.

5. It is the contention of the learned counsel for the petitioner that due to closure of his business, they are unaware about the issuance of notice. It is his contention that the residential address of the petitioner is very much available with the respondent and no notice has been sent to the residential address of the petitioner. Hence, the impugned Order has been passed in violation of natural justice.

6. Admittedly, after issuance of notice, no reply was filed by the petitioner, which was due to the reason that the notice has not been served on the petitioner and no opportunity of personal hearing was also given to the petitioner. Hence, the impugned Order has been passed in vioation of the principles of natural justice. Under these circumstance, this Court is inclined to set aside the impugned Orders passed by the second respondent dated 12.02.2018 subject to the following condition :

[i] The petitioner is directed pay a sum of Rs.2,00,000/- [Rupees two lakhs only] towards each Writ Petition, totally a sum of Rs.6,00,000/- [Rupees six lakhs] towards all the three Writ Petitions, to the respondents within a period of four weeks from the date of receipt of a copy of this Order.

[ii] Thereafter, the respondents are directed to serve a copy of the notice to the petitioner to his residential address, which will be provided by the petitioner at the time of paying the above amount, within a period of three weeks.

[iii] Within three weeks from the date of receipt of notice, the petitioner is directed to file his reply to the respondents.

[iv] Thereafter, the second respondent is directed provide an opportunity of personal hearing to the petitioner and decide the matter on merits and in accordance with law.

7. With the above directions, these writ petitions are disposed of. No costs. Connected W.M.Ps. are closed.

30.08.2024

Index : Yes/No
Neutral Citation : Yes/No

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To

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   Ezhilagam, Chepauk, Chennai – 600 005.

2. The State Tax Officer,
   Commercial Taxes Department, Dhramapuri.

3. The Enforcement Wing Officer,
   Commercial Taxes Department, Salem.

KRISHNAN RAMASAMY, J.

vrc

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