IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM

THE HONOURABLE MR JUSTICE N.ANAND VENKATESH

Crl.O.P.No.7357 of 2024

A.Senthil Kumar ... Petitioner

Vs.

The Additional Deputy Commercial Tax officer (IW)
Intelligence Wing,
Commercial Taxes Department,
100 Feet Road,
Puducherry – 605 005 .. Respondent/Complainant

PRAYER : The Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records and quash CC No.208 of 2013 pending on the file of learned Judicial magistrate I, Puducherry.

For Petitioner	:	Mr.P.Suresh philemon
For Respondent No.1	:	Mr.A.Alexander Government Advocate [Puducherry]

ORDER

This petition has been filed challenging the proceedings in CC No.208 of 2013 pending on the file of learned Judicial magistrate I, Puducherry

2. When the matter came up for hearing on 26.03.2024, on considering the submissions made by the learned counsel for the petitioner and also after considering the fact that the petitioner has already paid the entire tax and the penalty, this Court directed the learned Government Advocate appearing for the respondent to take instructions. The matter was posted for hearing today.

3. When the matter came up for hearing today, the learned Government Advocate has produced the written instructions received from the respondent. The relevant portions are extracted hereunder :-

In this regard, I am further to state that after the implementation of Goods and Services Tax, the work-load under the said Act has been increased. There are large number of cases and litigations pending under the repealed Pondicherry General Sales Tax Act, 1967, the Puducherry

Value Added Tax Act, 2007 and the Central Sales Tax Act, 1956 which involves locking of substantial amount of tax revenue. Therefore, the Government had enacted the Puducherry Settlement of Arrears Act, 2020 for settlement of arrears of tax, penalty and interest under the aforesaid Acts in respect of which assessment or reassessment is completed and demand has been created prior to the 1st day of July 2017 and thereafter it is clarified that the arrears shall include all unpaid dues as on 31 day of March, 2022 in respect of any assessment year or tax period prior to 1 day of July, 2017 vide the Puducherry Settlement of Arrears (Removal of Difficulties) Order, 2022 dated 30.11.2022. As per the above said Act, the dealers have to pay 100% Tax and claim a relief of 75% of penalty amount and the entire interest amount shall be waived. Further, the dealer has to submit the application as per the Act along with 50% of pending tax amount and remaining 50% of the tax amount and 25% of penalty will be paid within three months from the date of communication of amount determined by the Assessing Officer.

In this connection I am also to state that the Government have extended the period on two occasions in order to give an opportunity to the defaulting dealers to come forward and settle the long pending arrears under the said Settlement Act, 2020. Further as per the proviso to Section 9(3) of the said Act, the settled cases have to be withdrawn from the Judicial Magistrate Court with the prior approval of the Government. Accordingly, five defaulting dealers, including the petitioner have paid the entire tax and 25% of the remaining penalty as per the said Act. Further I am to state the Respondent department has already initiated action to submit the proposal to the Government after *obtaining the approval of the Competent Authority to withdraw the pending C.C. before the Learned Judicial Magistrate-I, Puducherry:*

In view of the above, I am further to state that the department has already initiated action to withdraw the above said case pending before the Learned Judicial Magistrate-I, Puducherry and the same is under process. However due to Model Code of Conduct is currently effective this department is unable to proceed in the matter and after the withdrawal of the Model Code of Conduct, the said CC pending before the Judicial Magistrate-I, Puducherry will be withdrawn which was filed against the petitioner for non-payment of tax and penalty.

4. On carefully going through the report, it is seen that the respondent has already taken steps to withdraw the complaint filed against the petitioner. It is also seen from the report that the petitioner has already paid the entire tax along with penalty under the Settlement Act, 2020.

5. In view of the same, no useful purpose will be served in keeping the proceedings pending and hence, the proceedings in CC No.208 of 2013 pending on the file of learned Judicial magistrate I, Puducherry, is hereby quashed.

6. This Criminal Original petition is allowed.

Index : Yes/No
Internet : Yes/No
rka

28.03.2024

To

1.The Additional Deputy Commercial Tax officer (IW)
Intelligence Wing,
Commercial Taxes Department,
100 Feet Road,
Puducherry – 605 005

2.The Public Prosecutor,
High Court, Madras.

N.ANAND VENKATESH, J.

rka

Crl.O.P.No.7357 of 2024

28.03.2024