WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.14453 of 2024
and
W.M.P.Nos.15724 & 15725 of 2024

M/s. V.N.V. Builders Pvt.Ltd.,
Rep.by its Managing Director,
Mr. V. N. Varadharajan ... Petitioner

Versus

1.State Tax Officer, Gobichettipalayam
Assistant Commissioner (State Tax Office)
Gobichettipalayam – 638 452.

2.Salem Smart City Limited,
Salem City Corporation Building,
Salem – 636 001.

3.Assistant Commissioner,
Corporation of Salem, Salem. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorarified Mandamus, to call for the entire records in connection with the impugned letter dated 21.05.2024 containing the certified copy of the order dated 09.01.2019 made in GST No. 33AABCV5017E1ZS of the 1st respondent in respect of tax

https://www.mhc.tn.gov.in/judis

WEB COPY

assessment for the period from July 2017 to December 2017 and to quash the same and consequently hold the petitioner company entitled to transition of the refund amount towards adjustment of tax due and direct the 1st respondent to pass orders, after giving a personal hearing to the petitioner company to submit the relevant papers and records.

For Petitioner	:	Mr. Kanmani Annamalai, for M/s. K.V. Subramanian Associates
For Respondents	:	Mr. V. Prashanth Kiran, Government Advocate, (for R1)

ORDER

An order dated 09.01.2019 in respect of assessment period July 2017 to December 2017 is challenged.

2. The petitioner asserts that the order dated 09.01.2019 was not communicated to the petitioner through any mode, including by uploading the same on the GST portal. In those circumstances, upon receipt of information from the garnishee, the petitioner approached the first respondent on 15.05.2024 with a request to furnish a certified copy of the impugned order. Upon receipt thereof, the present writ petition was filed.

3.Learned counsel for the petitioner submits that the impugned

https://www.mhc.tn.gov.in/judis

WEB COPY

order was received by the petitioner for the first time on or about 25.01.2024, and that the writ petition was filed shortly thereafter. He further submits that the bank account of the petitioner was attached and that the petitioner would not be in a position to continue the business unless the impugned order is interfered with.

4. Mr. V. Prashanth Kiran, learned Government Advocate, accepts notice on behalf of the first respondent. By referring to notice dated 26.11.2020, he points out that such notice referred to the DRC-7 issued on 09.01.2019. Since the petitioner has filed this document in the paper book, learned Government Advocate submits that the petitioner was aware of the impugned order in the year 2020. Therefore, he contends that this writ petition should not be entertained.

5. As correctly pointed out by learned Government Advocate, pursuant to the order dated 09.01.2019, by notice dated 26.11.2020, the petitioner was called upon to remit the tax dues in relation to the order dated 09.01.2019. In spite of receiving the notice, the petitioner did not take any steps to obtain a copy of such order within a reasonable time.

https://www.mhc.tn.gov.in/judis

WEB COPY

Instead, after receipt of the garnishee order, the petitioner addressed a communication to the first respondent on 15.05.2024 requesting for a certified copy of the impugned order and filed this writ petition upon receipt thereof.

6. Although a period of limitation is not prescribed for the initiation of proceedings under Article 226 of the Constitution of India, it is needless to say that the petitioner is required to approach the Court within a reasonable time. By taking into account the fact that the order is dated 09.01.2019 and the petitioner has filed this writ petition on 24.05.2024, the petitioner is not entitled to discretionary relief.

7. For reasons set out above, W.P.No.14453 of 2024 is dismissed without any order as to costs. Consequently, the connected miscellaneous petitions are also closed.

03.06.2024

Index : No
Speaking Order : Yes
Neutral Case Citation: No

klt

https://www.mhc.tn.gov.in/judis

WEB COPY

To

1.State Tax Officer, Gobichettipalayam
Assistant Commissioner (State Tax Office)
Gobichettipalayam – 638 452.

2.Salem Smart City Limited,
Salem City Corporation Building,
Salem – 636 001.

3.Assistant Commissioner,
Corporation of Salem, Salem.

https://www.mhc.tn.gov.in/judis

WEB COPY

SENTHILKUMAR RAMAMOORTHY,J

klt

W.P.No.14453 of 2024
and
W.M.P.Nos.15724 & 15725 of 2024

03.06.2024

https://www.mhc.tn.gov.in/judis