BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **19.06.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P.(MD) No.16732 of 2022
and
W.M.P.(MD) No.12134 of 2022

Tvl.Hari Narayana Timbers,
represented by its Proprietor,
C.Boopalan. ... Petitioner

/vs./

1.The Commissioner of Commercial Taxes,
O/o. the Principal and Special Commissioner
of Commercial Taxes,
Ezhilagam, Chepauk, Chennai 600 005.

2.The Assistant Commissioner (ST),
Dindigul – V Assessment Circle,
Commercial Taxes Office,
Sub Collectors Office Road,
Dindigul 624 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned proceedings of the 2nd respondent in TIN.33815380721/2015-2016 dated 27.05.2022 and quash the same.

For Petitioner : Mr.B.Rooban
For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The petitioner is before this Court against the order dated 27.05.2022 passed by the second respondent.

2.Earlier, the second respondent had passed an order dated 28.04.2017 for the same assessment year 2015-16. The petitioner filed an appeal before the Appellate Commissioner in A.No.308 of 2017 (VAT). The Appellate Deputy Commissioner (ST) by an order dated 15.07.2021, had remitted the case back to the second respondent to pass a fresh order based on the decision of this Court rendered in W.P.No.105 of 2016 (JKM Graphic Solution Private Limited, Chennai Vs. Commercial Tax Officer, Vepery Assessment Circle, ITC).

3.Pursuant to the aforesaid order, the petitioner was issued with a revision notice dated 08.12.2021. The petitioner however appears to have not filed reply to the same.

4.It is the case of the petitioner that when the personal hearing was fixed on 30.03.2022, the petitioner attempted to appear through the petitioner's accountant/authorized representative and attempted to produce the documents in respect of the claim. However, the second respondent apparently refused to receive the same stating that she wanted the Proprietor to be appeared for the personal hearing.

5.Reading of the impugned order indicates that several notices were issued to the petitioner pursuant to the order dated 15.07.2021 of the Appellate Deputy Commissioner (CT) Madurai. The petitioner has not replied to the same. Therefore, challenging the impugned order on merits as this stage is unsustainable. At the same time, the fact remains that a circular has been issued by the Commercial Tax Department pursuant to the orders passed by this Court in W.P.No.105 of 2016.

6.Considering the same, the case is remitted back to the second respondent to pass a fresh order on merits and in accordance with law complying with the guidelines given by the Secretary to Government in the respective Circular. Since the petitioner has also not fully cooperated with the respondents for taking up the case, there shall be a direction to the petitioner to deposit 10% of the disputed tax as a condition for taking up the case afresh and for disposal.

7.It is made clear that in case, the petitioner fails to deposit the aforesaid amount, the order passed herein will stand revoked *sine die* without reference. The petitioner shall file a reply to the respective show cause notices within a period of 30 days from the date of receipt of a copy of this order. The impugned orders, which stand quashed, shall be treated as addendum to the revision notice dated 08.12.2021.

8.It is expected that the second respondent will pass a fresh order on merits and in accordance with law within a period of 5 months from the date of receipt of a copy of this order. It is needless to state that the petitioner shall co-operate with the second respondent and the petitioner shall also be heard before fresh order is passed.

9.The Writ Petition stands disposed of, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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19.06.2024

To

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<u>C.SARAVANAN, J.</u>

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