IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.08.2015

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.Nos.23609 to 23615 of 2015
and M.P.Nos.1 & 2 of 2015(14.Nos)

S.Anbu

.... Petitioner in all the W.Ps.

Vs

1. The Commercial Tax Officer,
Tiruppattur,
Vellore District.

2.The Appellate Deputy Commissioner (CT)
Vellore, Vellore District.

.... Respondents in all the W.Ps.

PRAYER : The Writ petitions are filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified mandamus to call for the records on the file of the second respondent in his impugned Return Memo made in N.Dis.935/2015, dated08.06.2015 quash the same as illegal and contrary to the scheme of the Act and further direct the second respondent to entertain the appeal petition relating to the Assessment Years 2006-2007, 2007-2008, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, under TNVAT Act 2006.

For Petitioner : Ms. R.Hemalatha
For Respondents: Mr.ANR, Jayapratap, AGP(T)

C O M M O N O R D E R

Heard Ms. R.Hemalatha, learned Counsel for the petitioner and Mr.A.N.R. Jayapratap, learned Government Advocate (Taxes), who took notice for the respondents and with their consent, the main writ petitions are taken up for disposal.

2. These writ petitions have been filed challenging the impugned proceedings passed by the second respondent in Return Memo Nos.935, 936, 938, 939, 940, 941 and 941 respectively, dated 08.06.2015 to quash the same and consequently direct the second respondent to entertain the appeal relating to the relevant assessment years.

3. Admittedly, on the basis of the certificate issued on 07.05.2015, the assessment orders said to be passed was not served on the assessee. The Officer, who issued the certificate is bold enough to state that the copy of the assessment order was served on the other person, without intimating the name of the person received or the date of services. According to the learned counsel for the petitioner the said person does not mean the assessee.

4.Learned counsel for the petitioner further submitted that originally no such service was effected on 14.02.2015 and on the other hand the same was served only on 28.04.2015 to the petitioner and therefore, the appeal filed by the petitioner is well within the time. Without verifying all these factual aspects, the Appellate Authority, who is the second respondent herein, had returned the appeal as time barred which is illegal and unsustainable. Hence, the learned counsel prayed for appropriate orders.

5. I have heard the learned Government Advocate (T) on the above submissions and perused the materials available on record.

6. Since the officer who passed the assessment order himself has pointed out that on 14.02.2015, the assessment orders were served on the other person, whose name has not been indicated, this Court could clearly infer that this service cannot be taken as service on the assessee. It is admitted by the petitioner that the assessment orders were served on him on 28.04.2015. In view of the above, this Court is inclined to set aside the orders impugned herein.

7. Accordingly, the impugned orders are set aside. These writ petitions are allowed. When the limitation period is calculated with effect from 28.04.2015 on which date, the copy is served on the petitioner, the appeals are well within the time. Hence, the second respondent is directed to entertain the appeals, if it is otherwise in order, without raising any issue with regard to limitation, and pass appropriate orders on merits and in accordance with law, after affording due opportunity to the petitioner. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To,

1. The Commercial Tax Officer,
   Tiruppattur, Vellore District.

2.The Appellate Deputy Commissioner (CT)
   Vellore, Vellore District.

+7ccs to the Specila Government Pleader, Advocate, S.R.No.40008

+1cc to the Government Pleader, S.R.No.40142

PPA(CO)
EU(24/08/2015)

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