IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.No.29004 of 2015
and M.P.Nos 1 & 2 of 2015

S.Jayaraj

[Petitioner]

Proprietor of Saradha Agencies
Main Road
Eraiyur Chengam Taluk
Tiruvannamalai District.

Vs

1 The Commercial Tax Officer
Polur Tiruvannamalai District.

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

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the 2nd Respondent in his impugned Return Memo made in No. N.Dis.1481/15 dated 26.08.2015 quash the same as illegal and contrary to the scheme of the Act and further direct the 2nd Respondent to entertain the appeal petition relating to the Assessment year 2013-2014 under TNVAT Act 2006 and disposed of in accordance with law.

For petitioner : Ms.R.Hemalatha
For respondents: Mr.S.Kanmani Annamalai, AGP(T)

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader (Taxes) who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed challenging the 2nd Respondent's Return Memo made in No. N.Dis.1481/15 dated 26.08.2015 and to direct the 2nd Respondent to entertain the appeal relating to the Assessment year 2013-2014 under TNVAT Act 2006 and dispose of the same in accordance with law.

3. The case of the petitioner is that he is a dealer in Cement and assessee on the files of the Commercial Tax Officer, Polur, in TIN.No.33564542148. The petitioner had filed monthly returns in Form I declaring a total and taxable turnover for the assessment year 2013-14. The further case of the petitioner is that the 1st respondent had issued notice dated 02.05.2014, proposing to assess under Section 27 of the Act and on 19.11.2014, the 1st respondent has confirmed the proposal since the dealer has not filed any objections. Aggrieved over the same, the petitioner filed an appeal before the 2nd respondent on 14.12.2014, well within the prescribed time limit. However, the respondent has returned the appeal papers by stating that proof for payment of 25% of disputed tax was not enclosed with a direction to comply with the same and represent the appeal within 10 days. It is the case of the petitioner that due to financial difficulties, the petitioner could not pay 25% of the disputed tax while preferring the appeal, however, the same was deposited on 10.08.2015. However, the 2nd respondent has returned the appeal papers by return memo dated 26.08.2015. Aggrieved over the same, the petitioner is before this Court.

3. Admittedly, the petitioner filed an appeal as against the order of assessment before the 2nd respondent within the limitation period, but, of course, without enclosing the proof of payment of mandatory deposit. Hence, the appeal papers were returned. Hence, the learned counsel for the petitioner seeks indulgence of this Court for granting two weeks time for the purpose of representation of appeal papers.

4. In view of the same, after completing all the mandatory requirements, the petitioner is directed to re-present the papers to the appellate authority, within a period of two weeks from the date of receipt of a copy of this order and on such representation, the same shall be entertained by the appellate authority and orders be passed on merits and in accordance with law, after affording due

opportunity to the petitioner.

The writ petition is disposed of with the above directions. No costs. Connected miscellaneous petitions are closed.

-Sd/-
Assistant Registrar(cs-III)

//True copy//

Sub Assistant Registrar

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To

1 The Commercial Tax Officer
Polur Tiruvannamalai District.

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

+1 cc to spl Government Pleader (Taxes) High Court Madras(sr.50436)
+1 cc to Mrs.R.Hemalatha,Advocate(sr.50296)

W.P.No.29004 of 2015

km(co)
cp 29/09/2015