IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.33061 of 2015
and
M.P.Nos.1 and 2 of 2015

M/s.Wave Power Solution rep. by its
Proprietor R.Vimal ... Petitioner

Vs

1. The Deputy Commercial Tax Officer,
   Thiruppattur, Vellore District.

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

Writ Petition filed under Article 226 of the Constitution of India for the issuance of 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.1574/2015 dated 18.09.2015 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 year 2013-2014 under TNVAT Act, 2006 and dispose of in accordance with law.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.S.Kanmani Annamalai,
Additional Government Pleader (T)

ORDER

Seeking to quash the return memo dated 18.09.2015 and to direct the second respondent to entertain the appeal petition relating to the assessment year 2013-2014, the petitioner has filed the present writ petition.

2.The petitioner is a dealer in consumer items and assessee on the file of the fist respondent. The petitioner has filed monthly returns in Form I. The first respondent rejected the returns as incomplete and incorrect and proposed to levy penalty by proceedings dated 15.06.2015 and the same was communicated to the petitioner on 19.06.2015. Aggrieved by the same, the petitioner filed an appeal before the second respondent on 09.09.2015. The second respondent issued a return memo dated 18.09.2015 on the ground that proof of payment of 25% of disputed tax was not enclosed with the appeal and moreover, the appeal papers were filed after a lapse of 83 days. Aggrieved against the same, the present writ petition is filed.

3.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4.Learned counsel for the petitioner would submit that the petitioner has filed the appeal by completing all the procedures and also paid 25% of the disputed tax. She would further submit that the second respondent is not right in returning the appeal papers and the petitioner may be permitted to file an appeal.

5.Considering the facts and circumstances of the case and considering the submission made by the learned counsel for the petitioner, the petitioner is permitted to re-present the appeal before the appellate authority within a period of two weeks from the date of receipt of a copy of this order. On such filing of the appeal, the appellate authority shall entertain the same, without raising any issue with regard to limitation and pass orders on merits and in accordance with law, after affording due opportunity to the petitioner, as expeditiously as possible. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

1. The Deputy Commercial Tax Officer,
   Thiruppattur, Vellore District.

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

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.56772
+1cc to the Special Government Pleader(Taxes), S.R.No.57626

W.P.No.33061 of 2015

NM(CO)
CA(28/10/2015)