IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.3.2015

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.7696 of 2015
and
M.P.No.1 of 2015

M/s.Jai Traders,
Rep. by its Proprietrix
Mrs.Karpagam,
No.10, Loganathan Nagar,
3rd Street, Chennai 600 094. ...Petitioner

Vs.

The Commercial Tax Officer,
Vadapalani-I Assessment Circle,
Chennai - 600 006. ...Respondent

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the respondent in CST/815317/2010-11, quash the impugned proceedings dated 23.7.2014 and further direct the respondent to pass orders in accordance with the procedure contemplated under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.Kanmani Annamalai, AGP (T)

ORDER

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.Kanmani Annamalai, learned Additional Government Pleader (Taxes) and perused the materials placed on record. With the consent of either side, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner, who is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006, has filed the writ petition challenging the assessment order dated 23.7.2014 for the assessment year 2010-2011.

3.The only ground on which the impugned order has been challenged is that the notice issued by the respondent proposing to revise the turnover was not received by the petitioner and the manner in which the notice was served is not in accordance with Rule 19 of the Tamilnadu Value Added Tax Rules, 2007.

4 .The learned Additional Government Pleader (Taxes) submitted that the notice has been served in the manner prescribed under the rules and if the petitioner is aggrieved, they should have filed an appeal within the period of limitation.

5.Admittedly, as against the impugned orders the petitioner has an effective alternate remedy of filing an appeal without exhausting such remedy, the petitioner was not justified in approaching this Court by filing the writ petition. Therefore, this Court holds that the writ petition is not maintainable and the petitioner should avail the alternate remedy available under the Act. In the light of the peculiar facts of the case and taking into consideration that the demand of tax is for the year 2010-11, this Court is inclined to grant reasonable time to the petitioner to file an appeal. Accordingly, while rejecting the request made by the petitioner to quash the impugned order, liberty is granted to the petitioner to file appeal before the Appellate Authority as against the impugned orders and if such appeal is filed within a period of 30 days from the date of receipt of a copy of this order, the Appellate Authority shall entertain the appeal without reference to the Limitation Act and shall deal with the appeal in the manner prescribed under the Act.

6.In the result, these writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The Registry is directed to return the original impugned order.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

ssk.

To

The Commercial Tax Officer,
Vadapalani-I Assessment Circle,
Chennai – 600 006.

1 CC to Mr.V.Sundareswaran, Advocate SR.No. 15348

1 CC to the Spl.Government Pleader (T), SR.No. 15688

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KJI (CO)
PSI (06.04.2015)