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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.**08.2015**

Coram

**THE HONOURABLE MR.JUSTICE R.SUBBIAH**

W.P.(MD).No.8369 of 2014
and
M.P.(MD)Nos.1 and 2 of 2014

S.Nagarajan
S/o.Soodamani, Managing Director of
M/s.Mahesh Value Products (P)Ltd.,
No.157, Kamarajar Salai
Madurai 625 009. :Petitioner

vs.

1.The Appellate Deputy Commissioner (CT) Madurai (South)
3rd Floor, Commercial Tax Buildings,
Dr.Thangaraj Salai, Madurai.

2.The Commercial Tax Officer,
Kamarajar Salai Assessment Circle,
Madurai. : Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings ROC/237/2014/A, dated 15th April 2014 and quash the same and consequently direct the 1st respondent to consider the petitioner's appeal without insisting 25% of the disputed tax in-terms & 2nd proviso to Sec.51 of TNVAT Act, 2006.

For Petitioner :Mr.P.Ayyamperumal
For Respondents :Mr.R.Karthikeyan,
Addl.Govt.Pleader

**<u>O R D E R</u>**

The Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings ROC/237/2014/A, dated 15th April 2014 and quash the same and consequently, direct the 1st respondent to consider the petitioner's appeal, without insisting 25% of the disputed tax in-terms & 2nd Proviso to Sec.51 of TNVAT Act, 2006.

2. Though the present writ petition has been filed directing the 1st respondent to consider the petitioner's appeal, without insisting 25% of the disputed tax, in-terms & 2nd Proviso to Sec.51 of TNVAT Act, 2006,

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when the matter is taken up for consideration, the learned counsel for the petitioner submitted that the petitioner has paid 25% of the disputed tax. Hence, a direction may be given to the respondents to dispose of the appeal.

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3. But the learned Additional Government Pleader submitted that the petitioner has paid 25% of the dispute tax only after expiry of the statutory period. Hence, he prayed for dismissal of the writ petition.

4. The learned counsel for the petitioner relied on a Judgment of the Hon'ble Supreme Court in ***M/s.Indian Sucrose Ltd., Vs. State of Punjab & Another*** reported in ***(2014 (4) TMI 753)*** and submitted that in an identical situation, the Hon'ble Supreme Court, directed the respondents therein to restore the appeal and decide the same on merits.

5. In my considered opinion, since the petitioner has already paid 25% of the dispute Tax, in the interest of justice, appropriate direction could be given to the respondents to take the appeal on file and dispose of the same. Accordingly, the impugned order, dated 15.04.2014, passed by the 1st respondent is set aside. The 1st respondent is directed to take the appeal on file and dispose of the same, on merits and in accordance with law, within a period of six weeks, from the date of receipt of a copy of this order.

6. With the above observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

MPK
To
1.The Appellate Deputy Commissioner (CT) Madurai (South)
3rd Floor, Commercial Tax Buildings,
Dr.Thangaraj Salai, Madurai.

2.The Commercial Tax Officer,
Kamarajar Salai Assessment Circle,
Madurai.

+1CC to Spl.Government Pleader Sr.No.48889

GJM/SKS/RR/SARJ-8.9.15-2P-4C

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