IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.11061 of 2016
and
W.M.P.No.9627 of 2016

R.Udhuman Ali,
Proprietor of Tvl Vilupuram Steel,
No.58/18-58/1-A, Kalaignar Karunanidhi Street,
Villupuram. ... Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT),
   1, Commercial Taxes Buildings Sub Jail Road,
   Manjakuppam,
   Cuddalore - 607 001.

2. The Deputy Commercial Tax Officer,
   Villupuram I Assessment Circle,
   Ground Floor, Integrated CT Buildings,
   Collectorate, Master Plan Complex,
   Villupuram. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records in respect of the proceedings No.A/1075/2015 dated 06.10.2015 passed by the 1st respondent in respect of the assessment year 2013-14 under the TNVAT Act, 2006 and to quash the same and direct the 1st respondent to admit the appeal filed by the petitioner against the assessment order TIN No.:33234683222/2013-14 dated 15.06.2015 passed by the 2nd respondent and dispose of the appeals on its intrinsic merits in accordance with law.

For Petitioner : Mr.S.P.Asokan

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

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to call for the records in respect of the proceedings dated 06.10.2015 passed by the 1st respondent in respect of the assessment year 2013-14 under the TNVAT Act, 2006 and to quash the same and to direct the 1st respondent to admit the appeal filed by the petitioner against the assessment order TIN No:33234683222/13-14 dated 15.06.2015 passed by the 2nd respondent and dispose of the appeals on merits.

2.It is the case of the petitioner that the 1st respondent rejected the appeal filed by the petitioner stating that the petitioner failed to file the delay condonation petition along with the appeal.It is also the case of the petitioner that the appeal was filed by the petitioner with a delay of 28 days and therefore, the petitioner should have filed the delay condonation petition along with the appeal. For the non-filing of the petition to condone the delay of 28 days, instead of returning the papers for complying with the defects, the 1st respondent had rejected the appeal itself as not maintainable. The 1st respondent should have given an opportunity to the petitioner to file petition to condone the delay in filing the appeal.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader (Tax) taking notice for the respondents submitted that the petitioner may be given an opportunity to file the petition before the 1st respondent.

4.In view of the submissions made by the learned counsel on either side, I am of the view that the impugned order is liable to be set aside for the reason that the 1st respondent had rejected the appeal instead of returning the papers for complying with the defects in filing the appeal. Accordingly, the impugned order dated 06.10.2015 passed by the 1st respondent is set aside. The petitioner is directed to re-present the papers within a period of one week from the date of receipt of a copy of this order along with the petition to condone the delay in filing the appeal and the 1st respondent is directed to consider the delay condonation petition first and thereafter, decide the appeal in accordance with law.

5.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

va

To

1. The Appellate Deputy Commissioner (CT),
   1, Commercial Taxes Buildings Sub Jail Road,
   Manjakuppam,
   Cuddalore - 607 001.

2. The Deputy Commercial Tax Officer,
   Villupuram I Assessment Circle,
   Ground Floor, Integrated CT Buildings,
   Collectorate, Master Plan Complex,
   Villupuram.

+1cc to Mr.S.P.Asokan, Advocate, S.R.No.18950
+1cc to the Special Government Pleader(T), S.R.No.18857

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and
W.M.P.No.9627 of 2016

KK(CO)
CA(07/04/2016)