IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.17267 of 2014
and
M.P.No.1 of 2014

Brothers Chicken,
Rep.by its Proprietor,
T.P.Rasjheed,
MMC-X/503 Paral-Chokli Road,
Gramathy, Palloor,
Mahe-673 310 ... Petitioner

Vs.

The Commercial Tax Officer,
Puducherry ... Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari calling for the records on the file of the respondent herein in his TIN 34980019421/CTO/M/2013-14/391, dated 16.5.2014 and to quash the same.

For Petitioner : No Appearance

For Respondents : Mr.C.T.Ramesh,
Additional Government Pleader
assisted by
Mr.A.Tamilvanan,
Government Advocate

ORDER

None appears for the petitioner. Heard Mr.C.T.Ramesh, learned Additional Government Pleader, assisted by Mr.A.Tamilvanan, learned Government Advocate, appearing for the respondent.

2.The petitioner, who is a Registered dealer on the file of the respondent under the provisions of the Pondicherry

Value Added Act, 2007 (hereinafter referred to as 'PVAT Act 2007), has challenged the order of assessment made under the Pondicherry Value Added Act, 2007, for the period from December 2013 to February 2014, which was made under best of judgment under Section 24(2) of PVAT Act, 2007, invoking Section 25 of PVAT Act 2007.

3. At the time when the writ petition was entertained, an order of interim stay was granted on condition that the petitioner should deposit 50% of the total tax amount demanded within a period of two weeks from the date of receipt of the order. It was also made clear in the said order that the petitioner should continue to pay the actual amount of tax for the future months within the stipulated time and the order will not enure to the benefit of the petitioner in case of default in future payments, as demanded by the authority.

4. The learned Government Advocate, appearing for the respondent submitted that the petitioner had only partially complied with the order by paying 50% of the tax, as demanded in the impugned assessment order, but defaulted in payment of tax for the subsequent years and thereby violated the direction issued by this Court in the interim application.

5. In any event, the impugned order being an assessment order, the petitioner has to prefer appeal as against the same before the appellate authority, since complicated disputed questions of fact are involved.

6. In the light of the above, the writ petition is disposed of giving liberty to the petitioner to file an appeal before the appellate authority and if the appeal is filed within 30 days from the date of receipt of a copy of this order, the appellate authority shall entertain the same without reference to limitation. This order will not be a prohibition or bar for the respondent department in proceeding against the petitioner for the other assessment years. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

msk

To

The Commercial Tax Officer,
Puducherry.

W.P.No.17267 of 2014

VD(CO)
CA(17/08/2016)