IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.1987 of 2016 and
W.M.P.Nos.1730 & 1731 of 2016

M/s.Sri Sapthagiri Agencies,
rep by its Proprietor L.Sundar Babu
T.C.R.Complex,
No.106/5, Chairman Duraisamy Road,
Krishnagiri Road, Thirupattur,
Vellore District. ... Petitioner

Vs.

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

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

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus to call for the records on the file of the 2nd respondent in his impugned Return Memo made in N.Dis.2101/2015 dated 28.12.2015 quash the same as illegal and contrary to the scheme of the Act and further direct the 2nd respondent to entertain the appeal petition relating to the assessment year 2013-2014 under TNVAT Act, 2006 and disposed of in accordance with law.

For Petitioner : Mr.S.Rajasekar
For Respondents : Mr.Manoharan Sundaram,
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 on the file of the 2nd respondent in his impugned Return Memo made in N.Dis.2101/2015 dated 28.12.2015 quash the same as illegal and contrary to the scheme of the Act and further direct the 2nd respondent to entertain the appeal petition relating to the assessment year 2013-2014 under TNVAT Act, 2006 and disposed of in accordance with law.

2.In the additional affidavit, the petitioner has stated that challenging the order passed by the 1st respondent on 15.10.2014, which was communicated to the petitioner on 17.10.2014, the petitioner should have filed an appeal within 30 days (i.e.) on or before 16.11.2014 before the 2nd respondent. However, the petitioner can file the appeal even after the expiry of the 30 days time with a petition for condonation of delay.

3.The learned counsel for the petitioner submitted that the petitioner had already deposited 25% of the disputed tax before the 2nd respondent. There was a delay of more than one year in filing the appeal before the 2nd respondent.

4.Mr.Manoharan Sundaram, learned Additional Government Pleader (Tax) taking notice on behalf of the respondents submitted that the 2nd respondent may be directed to dispose of the appeal on merits and in accordance with law.

5.Having regard to the submissions made by the learned counsel on either side, since the petitioner had filed the appeal and also deposited 25% of the disputed tax amount before the 2nd respondent as a condition precedent for filing the appeal, I direct the 2nd respondent to take on file the appeal filed by the petitioner and decide the same on merits and in accordance with law.

6.With this observation, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

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

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

+1cc to M/S.R.Hemalatha, Advocate, S.R.No.7212
+1cc to the Government Pleader, S.R.No.7475

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vd(CO)
srg(15/02/2016)