IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.30394 to 30396 of 2015 and

M.P.Nos.1 to 1 of 2015

Bharath Ageny
rep. By its Proprietor
Thiru V.Ramalingam
No.2/677, Veeran Koil Street,
Periyar Nagar,
Vriddhachalam – 606 001 ...Petitioner in all the Writ Petitions

Vs

The Commercial Tax Officer
Vriddhachalam Assessment Circle,
Ground and first floor no.135,
Junction Road,
Virudhachalam ...Respondent in all the Writ Petitions

Prayer : Writ Petitions have been filed under Article 226 of the Constitution of India to issue Writ of Certiorari calling for the records in respect of the impugned assessment order in TIN No.33724422265/2012-13; 2013-2014 and 2014-2015 respectively dated 15.07.2015; 14.08.2015 respectively of the respondent under the Tamilnadu value Added Tax Act, 2006, quash the same.

For Petitioner : No appearance

For Respondent :Mr.Manokaransundaram
Additional Government Pleader

C O M M O N O R D E R

None appears for the petitioner. Heard Mr.Manokaran Sundaram, learned Additional Government Pleader appearing for the respondent.

2. From the order sheet it is seen that these Writ Petitions were

not even admitted by this Court nor notice was ordered to the respondent, but, at the request made by the learned counsel for the petitioner on 28.09.2015, the matter was adjourned by one week. Thereafter, no steps appears to have taken to list the matter.

3. The order impugned in these writ petitions are assessment orders made under the provisions of the TNVAT Act, 2006. On notice being issued to the petitioner, calling for their objections, to the proposed revised assessment order, which is a procedure for passing such revised assessment order, the petitioner appears to have filed their monthly returns. The assessing authority, in the impugned order has refused to accede to the same, as it has been filed after a lapse of 26 months that too after issuance of notice dated 08.06.2015.

4. In the affidavit filed in support of the Writ Petitions, the petitioner would contend that the impugned order is against the decision in the case of Batta Shoe Company Private Limited Vs. The Joint Commercial Tax Officer, Harbour Division II, Madras and Another reported in 1967-(1968) 21 STC (Mad)" . The other ground raised is by contending that the levy of penalty is unwarranted.

5. Firstly, before contending that the impugned order is against the dictum of a Division Bench of this court, the petitioner should first place the facts. Without facts, law cannot be made applicable.

6. Therefore on the grounds raised by the petitioner, the Writ Petitions cannot be entertained, especially, when the issue involved relates to a serious disputed questions of fact. Hence the Writ Petition's are not maintainable and the same is dismissed. However, the petitions are granted liberty to file an appeal before the appellate authority and the appeal shall be preferred within a period of 30 days from the date of receipt of copy of a order. On such appeal being filed, the appellate authority shall entertain the appeal without reference to limitation. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer
Vriddhachalam Assessment Circle,
Ground and first floor no.135,
Junction Road,
Virudhachalam

+1 cc to Spl.Govt.Pleader,sr.42176

+1 cc to Mr.S.P.Asokan, advocate,sr.42576.

svi(co)
krd 5/8

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