IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.20189 of 2016

M/s.Neel Auto (Private) Limited
Rep by its Finance Manager
Poonapalli Village, Anekal Road
Belagondapalli Post
Hosur - 635 114. .. Petitioner

..Vs..

1.The Joint Commissioner of Commercial Taxes
Commercial Tax Building
Pichards Road
Hasthampatty
Salem - 636 007.

2.The Deputy Commercial Tax Officer
Checkpost Officer
Hosur Out Check Post
Hosur.

3.The Commercial Tax Officer
Commercial Tax Department
Hosur. .. Respondents

Prayer:
Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records in ROC.1893/2016/A7 dated 29.04.2016 passed by the first respondent and the connected order dated 19.01.2016 passed by the second respondent and quash the same as illegal and consequently direct the second respondent to dispose of the case on merits in accordance with law.

For Petitioner : Mr.S.Rajesh

For Respondent : Mr.S.Kanmani Annamalai, A.G.P., ORDER

Heard Mr.S.Rajesh, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepting notice on behalf of the respondents and with the consent of the either side, the writ petition itself is taken up for final disposal.

2.The petitioner is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) and the Central Sales Tax Act, 1956 (CST Act) on the file of the respondents. The petitioner is stated to have a sister concern in Karnataka, who are also registered under the provisions of the Karnataka Value Added Tax Act.

3.The order which is impugned in this writ petition is an intimation issued by the first respondent who is the revisional authority returning the petitioner's revision application as filed beyond the prescribed period and not entertainable. The facts which are necessary to decide the present case are that the petitioner received the order as against which he has filed the revision petition on 19.01.2016. The petitioner ought to have filed the revision petition on or before 18.02.2016, however, he has filed only on 26.04.2016 and therefore, the revision petition was presented after 98 days.

4.The Tamil Nadu Value Added Tax Act, 2006 prescribes 30 days as the period of limitation and the revisional authority, if satisfied with the reasons shown for the delay is entitled to condone the delay upto a period of another 30 days. Therefore, the revision cannot be entertained beyond a period of 60 days. However, even reckoning the additional period of 30 days, the revision petition is beyond the period of limitation and therefore, the revisional authority was fully justified on returning the revision petition as not maintainable.

5.In the instant case, the petitioner has challenged the collection of compounding fee to the tune of Rs.1,83,758/-. However, while releasing the cargo pursuant to the release order dated 19.01.2016, a sum of Rs.91,879/- has been collected from the petitioner as tax. The petitioner has not questioned the same in the revision petition and he has questioned only the compounding fee of Rs.1,83,758/- which he has paid under protest.

6.Thus considering the said fact and also taking note of the fact that the petitioner was unwell and he has produced a medical certificate and also filed an affidavit explaining the reason for the delay, this Court is of the view that the petitioner should be permitted to pursue the revision application, without reference to limitation or else it would amount to petitioner being left without any remedy.

7.Thus, taking note of the peculiar facts and circumstances, this Court is of the view that the delay in filing the revision petition should be condoned. Accordingly, the writ petition is allowed and the delay in filing the revision petition is condoned. The first respondent is directed to take on file the revision petition, when presented along with the copy of the order and thereafter, proceed in accordance with law. No costs.

pgp

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1.The Joint Commissioner of Commercial Taxes
Commercial Tax Building
Pichards Road
Hasthampatty
Salem - 636 007.

2.The Deputy Commercial Tax Officer
Checkpost Officer
Hosur Out Check Post
Hosur.

3.The Commercial Tax Officer
Commercial Tax Department
Hosur.

+ 1 cc to Spl.Govt.Pleader (Taxes) SR 33551

+ 1 cc to Mr.S.Sivanandam, Advocate SR 32450

su(co)
prk11/7

W.P.No.20189 of 2016