In the High Court of Judicature at Madras

Dated : 15.6.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.20217 of 2016 & WMP.No.17390 of 2016

M/s.Square Q Merchandising,
rep.by its Proprietor Mohit Bansal ...Petitioner

Vs

1.The Appellate Deputy Commissioner of Commercial Tax, Central Assessment Circle,Greams Road Chennai-6

2.The Assistant Commissioner of Commercial Tax, Egmore Assessment Circle, Chennai. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the 1st respondent/-The Appellate Deputy Commissioner of Commercial Tax in Aa.Thi.Mu.188/2016 dated 30.5.2016, quash the same and also direct the 1st respondent to consider the Appeal on merits and dispose of the same.

For Petitioner : Mr.S.Santhana Krishnan
For Respondents : Mr.S.Kanmani Annamalai, Additional Government Pleader

ORDER

Heard both. By consent, the writ petition itself is taken up for final disposal.

(2)

2. The petitioner, who is a registered dealer on the file of the second respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging the memo issued by the first respondent - Appellate Authority returning the appeal petition as not maintainable, as it has been presented beyond the period of limitation.

3. While returning the appeal memorandum, the petitioner was advised to approach this Court and obtain appropriate orders. The first respondent was justified in returning the appeal memorandum as not maintainable on the ground that it had been presented beyond the condonable period of limitation stipulated under the said Act. However, considering the facts and circumstances of the case and also accepting the plea raised by the petitioner that the Accounts Officer of the company abruptly left the job and already, the petitioner's bank account has been attached, this Court is of the view that the petitioner can be permitted to pursue his appeal and that the first respondent should entertain the same without reference to the question of limitation.

4. Accordingly, the writ petition is allowed, the impugned order is set aside and the delay in filing the appeal petition is condoned. The first respondent is directed to accept the appeal petition of the petitioner and proceed in accordance with law. No costs. Consequently, the above WMP is closed.

-s/d-
Assistant Registrar(CSVI)

True Copy

Sub-Assistant Registrar

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To
1.The Appellate Deputy Commissioner of Commercial Tax,
Central Assessment Circle, Chennai-6.

2.The Assistant Commissioner of Commercial Tax,
Egmore Assessment
Circle, Chennai.

+1 cc to Mr.P.Sathish Advocate sr.32483/16
+1 cc to Special Government Pleader(Taxes) sr.33319/16

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