IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 21.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.20921 of 2016
&
W.M.P.No.17922 of 2016

Textile India
Rep. By its Partner
Mohanlal Bisani
No.36, Godown Street
Sowcarpet
Chennai - 600 001 .. Petitioner

Vs.

1. The Assistant Commissioner (CT)
Kothavalchavadi Assessment Circle
Wavoo Mansion
No.48/39, Rajaji Salai
Chennai - 600 001

2.The Appellate Deputy Commissioner (CT)
Chennai (North) FAC
No.1, Greams Road
Chennai - 600 006 .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent passed in TIN/33160182315/2013-14 A.No28 dated 22.03.2016 and quash the same and further direct the first respondent to re-do the assessment in accordance with law.

For Petitioner : Mr.N.Murali

For Respondents : Mr.V.Haribabau
Additional Government Pleader

O R D E R

Heard Mr.N.Murali, learned counsel for the petitioner and Mr.V.Haribabu, learned Additional Government Pleader appearing for the respondent. With the consent of learned counsel appearing on either side, the writ petition itself is taken up for final disposal.

2. The petitioner, who is a registered dealer under the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act), has filed this writ petition challenging the Order of Assessment for the year 2013-2014. Admittedly, the petitioner did not submit his objections to the Pre-Assessment Notice dated 14.01.2016 and therefore, the Assessing Officer, having left with no other option, confirmed the proposal in the notice. Challenging the same, the petitioner filed an appeal before the second respondent and also effected pre-deposit of Rs.1,55,500/- being 25% of the disputed tax. The appeal was heard by the second respondent and rejected on the ground that it has been filed beyond the statutory limit of 60 days.

3. Considering the peculiar facts and circumstances of the case and taking note of the fact that the Appellate Authority has already received the 25% of the disputed tax, there will be a direction to the Appellate Authority to entertain the petitioner's appeal petition without reference to limitation and proceed in accordance with law. In the event of petitioner prefers a stay application before the Appellate Authority, the same shall be considered in accordance with law. It is open to the petitioner to canvass all factual and legal issues before the Appellate Authority. It is made clear that this order shall not be treated as a precedent and has been passed considering the peculiar facts and circumstances.

The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa
To
1. The Assistant Commissioner (CT)
Kothavalchavadi Assessment Circle
Wavoo Mansion, No.48/39, Rajaji Salai
Chennai - 600 001
2.The Appellate Deputy Commissioner (CT)
Chennai (North) FAC
No.1, Greams Road, Chennai - 600 006

+1cc to Mr.N. Murali, Advocate, S.R.No.34272
+1cc to the Government Pleader, S.R.No.34771

RK(CO)
EU(4/07/2016)