IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25561 of 2016

M/s.Deepak Roadways,
Rep. by its Proprietor Mr.T.R.Balaji,
No.56, Kandappa Chetty Street,
Chennai-600 001. .. Petitioner

Versus

The Joint Commissioner (RP),
Commercial Taxes,
(Chennai North Division),
CT Building, Greams Road,
Chennai-600 006. .. Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records in relation to the order of the respondent in R.C.No.8053/2015/B1, dated 23.10.2015 and quash the same and further direct the respondent to provide an opportunity to the petitioner to re-present the Revision under the VAT Act and condoning the delay in consideration of arbitrary and unauthorized collection of tax contrary to the provisions of CST Act.

For Petitioner : Mr.H.Nazirudeen

For Respondent : Mr.S.Kanmani Annamalai
Additional Government Pleader

O R D E R

Heard Mr.H.Nazirudeen, learned counsel appearing for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition itself is taken up for final disposal.

2. The petitioner is a goods transporter and have filed this Writ Petition, challenging an order passed by the respondent, 23.10.2015, rejecting the petitioner's Revision Petition, as time barred.

3. The impugned order of rejection is perfectly legal and valid, since the Revision Petition was presented well beyond the condonable period. Under normal circumstances, this Court would have rejected the relief sought for. However, in the instant case,

the petitioner is a Transporter of the goods and not a dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

4. That apart, pursuant to the orders passed in an earlier Writ Petition in W.P.No.13652 of 2014, on 16.06.2014, the goods have been released on payment of tax of Rs.2,38,590/-, which had been paid by the petitioner on 03.07.2014. This Court, while directing release of the goods, subject to payment of tax, made it clear that the petitioner has to subject himself to the adjudication proceedings. However, till date, the jurisdictional Assessing Officer has not initiated any proceedings, either assessing the petitioner or the owner of the goods to tax.

5. In such circumstances, the petitioner having paid substantial amount of money, would be entitled to prosecute the Revision Petition. This observation is made considering the peculiar facts and circumstances of the case and this order should not be treated as a precedent.

6. Accordingly, the Writ Petition is allowed and the impugned order is set-aside and the respondent is directed to consider the Revision Petition on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner. No costs.

Sd/-
Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

To

The Joint Commissioner (RP),
Commercial Taxes,
(Chennai North Division),
CT Building, Greams Road,
Chennai-600 006.

+1 cc to Mr.H.Nazirudeen,advocate,sr.25561

+1 cc to Spl.Govt.Pleader,sr.46922.

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krd 8/8

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