IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAISWAMY

W.P.No.2836 of 2016 &

W.M.P.Nos.2377 & 2378 of 2016

Mr.Chhaganlal Khatri .. Petitioner

v.

1 The Additional Commissioner of Commercial Taxes
O/o.Principal Commissioner of Commercial Taxes
Ezhilagam Chepauk
Chennai-5

2 The Joint Commissioner of Commercial Taxes (CT)
Salem Division
Salem

3 Commercial Tax Officer (Enf)
Roving Squad II, Salem
O/o. Dy. Commissioner (CT) Enforcement Wing
D.No.2, Ramani Road
8th Cross Road, Brindavan Road
(opp. SKS Hospital)
Salem-4

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in R.P.60/2013, dated 6.2.2015 and consequent order of 1st respondent in J1/26133/2015, dated 9.9.2015 and quash the same as illegal and consequently direct the 1st respondent to dispose of the revision petition dated 16.8.2015 on merits in accordance with law.

For Petitioner : Mr. S.Rajesh
For Respondents : Mr.S.Kanmani Annamalai
Addl. Govt. Pleader(T)

ORDER

The petitioner has filed the above writ petition to issue a writ of Certiorarified Mandamus to call for the records of the second respondent in R.P.60/2013, dated 6.2.2015 and consequent order of the first respondent in J1/26133/2015, dated 9.9.2015 and to quash the same as illegal and consequently direct the first respondent to dispose of the revision petition dated 16.8.2015 on merits and in accordance with law.

2. It is the case of the petitioner that he filed revision before the second respondent in R.P.60/2013 with all necessary documents under the Tamil Nadu Value Added Tax Act, 2006. However, by order dated 06.02.2015, the second respondent rejected the claim of the petitioner without considering the documents produced by the petitioner. Aggrieved by the same, the petitioner had filed an appeal before the first respondent in J1/26133/2015 against the R.P.No.60/2013, dated 06.02.2015, however, with a delay of 151 days in filing the appeal papers. The petitioner has stated that he has given acceptable reasons before the first respondent for condoning the delay of 151 days in filing the appeal papers, however, the first respondent returned the appeal papers filed by the petitioner stating that the appeal is not entertainable for the reason that under section 54 of the TNVAT Act, 2006, an application for revision shall be filed within a period of 30 days from the date of service of order.

3. Since the petitioner has given acceptable reasons before the first respondent for condoning the delay of 151 days in filing the appeal, I am of the view that in the interest of justice, the petitioner could be given an opportunity to prosecute the appeal on merits. This court in W.P.No.25625 of 2015, dated 18.8.2015, permitted to petitioner to re-present the papers and directed the appellate authority to decide the matter afresh without insisting on the question of limitation.

4. Mr.S.Kanmani Annamalai, learned Additional Government Pleader appearing for the respondents submitted that the first respondent may be directed to entertain the appeal without insisting on the limitation.

5. In these circumstances, the impugned order passed by the first respondent dated 9.9.2015 is set aside and the matter is remanded back to the first respondent for fresh consideration. The petitioner is permitted to re-present the

appeal before the first respondent by complying with all the mandatory requirements within a period of two weeks from the date of receipt of a copy of this order and on such filing of the appeal, the first respondent is directed to entertain the same without raising any issue with regard to limitation and pass appropriate orders, on merits and in accordance with law, after affording due opportunity to the petitioner, as expeditiously as possible.

With these observations, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Rj
To
1 The Additional Commissioner of Commercial Taxes
O/o.Principal Commissioner of Commercial Taxes
Ezhilagam Chepauk
Chennai-5

2 The Joint Commissioner of Commercial Taxes (CT)
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+1 cc to Special Government Pleader(Taxes) vide sr.9591

+ 1 cc to Mr.S.Rajesh, Advocate Sr 10125 (17/3/16)

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aa23/02/2016