IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 08.09.2016

Coram

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.31246/2016 & WMP.Nos.27119 & 27120/2016

M/s.New Cauvery Chemicals
[Defunct], rep.by Partner R.S.Kumar
No.38, Bhavani Main Road, BP Agraharam
Erode 638005, Erode District. ... Petitioner

..vs..

The Assistant Commissioner
[CT], Periya Agraharam Assessment Circle
Erode, Erode District. ... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for writ of certiorari calling for the records on the file of the respondent in his impugned proceedings made in TIN No.33903075418/2012-13 dated 02.03.2016 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mr.S.Rajasekar

For Respondent : Mr.K.Venkatesh, GA

ORDER

Heard Mr.K.Selvaraj, learned counsel for the petitioner and Mr.K.Venkatesh, learned Government Advocate who accepts notice on behalf of the respondent and with the consent on either side, the writ petition is taken up for final disposal.

2 The petitioner, in this writ petition, challenges the order of assessment passed by the respondent dated 02.03.2016 with a prayer to quash the same.

3 The order impugned in this writ petition is an order of assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the Assessment Year 2012-13. In fact, the impugned order is an order of revised assessment passed

under section 22[4] of the TNVAT Act, 2006. The petitioner had earlier approached this Court and filed WP.No.20410/2015 questioning the revised assessment order for the same year dated 18.12.2014 and for a consequential direction to re-do the assessment under the provisions of section 22[6][a] of the TNVAT Act, 2006. The case as projected by the petitioner was accepted by this Court and the writ petition was disposed of by the order dated 09.07.2015, issuing direction to the Assessing Officer, to re-do the assessment in terms of section 22[6][a] of the Act within a time frame. Pursuant to which, a notice was issued to the petitioner on 12.10.2015 and the petitioner has also submitted his objections which has been received by the respondent on 02.11.2015. Thereafter, by a reasoned order, the assessment has been completed. Now the petitioner seeks to challenge the impuned assessment raising various factual grounds.

4 Admittedly, the impugned assessment is not questioned on any technical ground ; but essentially the disputed questions of fact have to be gone into before arriving at a conclusion as to whether the impugned assessment order is justified or not. However, this exercise cannot be done in a writ petition and the petitioner has to necessarily avail the appellate remedy as against the impugned order. However, it is seen that the impugned order was passed on 02.03.2016 and by now, the period of limitation has expired.

5 Considering the fact that the petitioner should not be denied an opportunity to question the correctness of the order, this Court deems it appropriate to grant liberty to the petitioner to file an appeal before the Appellate Assistant Commissioner [CT], Erode, within a period of thirty days from the date of receipt of a copy of this order. If the same is filed, the Appellate Authority shall entertain the appeal petition without reference to limitation.

6 With the above direction, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Assistant Commissioner
[CT], Periya Agraharam Assessment Circle
Erode, Erode District.

+1cc to Mr.R.Hemalatha, Advocate Sr.50974
+1cc to the Government Pleader sr.51233

WP.No.31246/2016

scd[co]
srg 22/09/2016