In the High Court of Judicature at Madras

Dated : 25.10.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.37273 of 2016 & WMP.No.31973 of 2016

M/s.Spice Retails Limited, rep.
by its Authorized Signatory ...Petitioner

Vs

The Assistant Commissioner (CT),
Kodambakkam Assessment Circle,
Chennai. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call upon the connected records relating to the proceedings of the respondent herein made in TIN : 33101483215/2013-14 dated 1.7.2016 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 and the Central Sales Tax Act, 1956. The petitioner has challenged the impugned order of assessment dated 1.7.2016 passed under the provisions of the Central Act for the year 2013-14.

3. When this Court pointed that the issues involved in the assessment proceedings are all factual in nature, the learned counsel for the petitioner would submit that the petitioner may be permitted to file an appeal before the Appellate Authority and that for reasons beyond their control, the limitation period already expired and therefore, there is a delay of 30 days.

4. On perusal of the impugned proceedings, it is seen that though the petitioner had accepted their liability to the tune of Rs.1,75,552/-, they have not remitted the amount and they have not enclosed the cheque along with their objections though it appears that they agreed to enclose the cheque.

5. Considering the peculiar facts and circumstances of the case, this Court issues the following directions :

"(i) The petitioner is directed to pay a sum of Rs.1,75,552/- (Rupees one lakh seventy five thousand five hundred and fifty two only) within a period of two weeks from the date of receipt of a copy of this order.

(ii) If the said sum is remitted before the respondent, the petitioner is given 15 days' time to prefer an appeal before the Appellate Authority and the said period of 15 days' time will be computed from the date of expiry of two weeks, within which period, the said amount shall be paid.

(iii) If such an appeal is filed within the time stipulated, the Appellate Authority shall not reject the appeal on the ground of limitation.

(iv) It is made clear that the Appellate Authority shall entertain the appeal subject to the petitioner complying the other conditions of predeposit, etc.

(v) It is needless to state that if the said amount is not paid within the time stipulated, this order will not enure to the benefit of the petitioner and the respondent can proceed further in accordance with law."

No costs. Consequently, the above WMP is closed.

-sd/-
Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

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To

1 The Assistant Commissioner (CT),

Kodambakkam Assessment Circle,
Chennai.

2 The Despatch wing,c.o.Depatment[for retunrn of documents]

+1 cc to Adithya Reddy, Advocate SR.NO. 60727

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nm[co]

RD 12/11/2016