In the High Court of Judicature at Madras

Dated : 03.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.38203 of 2016 & WMP.No.32753 of 2016

Sakthi & Co., Chennai-5. ...Petitioner

Vs

1.The Commercial Tax Officer (CT),
Chepauk Assessment Circle,
Chennai-6.

2.The Appellate Deputy Commissioner
(CT), Chennai East, Chennai-6. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call upon the proceedings in R.C.No.168/2016/A1 dated 21.3.2016 of the second respondent herein, quash the same and consequently direct the second respondent herein to take on the file of appeal of the petitioner after condoning the delay of 165 days in filing of the appeal petition before the second respondent and give the direction against the second respondent to receive the appeal petition.

For Petitioner : Mr.G.Vetrivelrajan
For Respondents : Mr.K.Venkatesh, GA

ORDER

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

2. The petitioner has filed this writ petition challenging an order passed by the second respondent, in and by which, the second respondent held that the petitioner's appeal petition is not entertainable, as it has been filed beyond the time granted by this Court in W.P.No.22370 of 2015.

3. It is seen that the petitioner challenged the assessment order for the year 2014-15 under the Tamil Nadu Value Added Tax Act, 2006 in the said writ petition in W.P.No.22370 of 2015. The said writ petition was disposed of by an order dated 24.7.2015 directing the petitioner to file an appeal before the Appellate Authority within a period of two weeks. Another writ petition in W.P.No.22371 of 2015 was filed challenging the assessment order for the year 2013-14 and that was disposed of on 27.7.2015 by directing the petitioner to file the appeal.

4. It appears that in the order dated 24.7.2015 in W.P.No.22370 of 2015, there was no specific direction given by this Court to return the impugned assessment order to file the appeal. However, in the order dated 27.7.2015 in W.P.No.22371 of 2015, there has been such a direction and therefore, the petitioner availed the appeal remedy and it is stated that they have also succeeded. This aspect has been explained by the petitioner in the affidavit in support of the writ petition and after obtaining a certified copy, they have presented the appeal. Therefore, this Court is of the view that the appeal filed by the petitioner should be entertained.

5. For the above reasons, the writ petition is allowed, the impugned order is set aside and the petitioner is directed to represent the appeal petition before the second respondent, who shall entertain the appeal petition for the reasons above mentioned. No costs. Consequently, the above WMP is closed.

03.11.2016

Internet : Yes

To
1.The Commercial Tax Officer (CT), Chepauk Assessment Circle, Chennai-6.
2.The Appellate Deputy Commissioner (CT), Chennai East, Chennai-6.

RS

T.S.SIVAGNANAM,J
RS

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