In the High Court of Judicature at Madras

Dated : 07.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.38715 to 38719 of 2016
& WMP.Nos.33170 to 33174 of 2016

Tvl.Datacom Consultants &
Services, rep.by its Proprietor
V.Thirunavukkarasu ...Petitioner in all WPs

Vs

1.The Commercial Tax Officer,
Royapettah Assessment Circle, 46, Greenways Road,
Chennai-28.

2.The Appellate Deputy Commissioner
(CT), Chennai (East),
C.T.Building Annexe 3rd Floor,
Greams Road,
Chennai-6. ...Respondents in all WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorarified Mandamus to call for the impugned proceedings of the second respondent respectively in N.Dis.561/2016/A1, N.Dis.621/2016/A1, N.Dis.622/2016/A1, N.Dis.623/2016/A1 and N.Dis.624/ 2016/A1, all dated 24.8.2016, quash the same and direct the 2nd Respondent to accept the appeal papers along with additional grounds and 25% of the disputed tax for reversal of input tax credit for want of C-Forms and disallowing the exemption under Section 3 of the Central Sales Tax for not filing of C-Forms.

For Petitioner : Mr.A.N.R.Jayapratap

For Respondents : Mr.S.Kanmani Annamalai, AGP

COMMON ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2.The petitioner has filed these writ petitions challenging the memos, in and by which, the second respondent returned the appeal petitions filed by the petitioner as not entertainable.

3.The facts of the present case appear to be little peculiar. The petitioner challenged the orders of assessment under the Central Sales Tax Act for the years 2008-09 to 2012-13. Though the assessments were completed under three heads, the petitioner filed appeals before the Appellate Authority only against one head and they did not challenge the two other heads, on which, the assessments were made. With regard to the ground raised in the appeals as against one particular head, the petitioner paid 25% of the disputed tax and it is not in dispute that the appeals were filed within time. However, the respondent returned the appeal petitions on two grounds namely (i) that the 25% of the disputed tax has not been paid and (ii) that the payment of 25% cannot be accepted beyond the period of 60 days.

4.After filing these writ petitions, the learned counsel for the petitioner would contend that the petitioner may be permitted to go before the Appellate Authority and raise additional grounds with regard to the other two heads, on which, the assessments have been completed and that the petitioner will pay 25% of the disputed tax on the other two heads also.

5.I have heard the learned Additional Government Pleader on the above submissions.

6.Considering the peculiar facts and circumstances of the case and taking note of the stand taken by the petitioner before this Court, this Court is inclined to permit the petitioner to go before the Appellate Authority and raise additional grounds and also pay 25% of the disputed tax under the other two heads also.

7. Accordingly, the writ petitions are disposed of by directing the petitioner to represent the appeal papers along with a copy of this order, within two weeks from the date of receipt of a copy of this order, raising additional grounds and remitting 25% of the disputed tax. If the same is done, the Appellate Authority shall entertain the appeals and proceed further in accordance with law. No costs. Consequently, the above WMPs are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

RS
To

1.The Commercial Tax Officer,
Royapettah Assessment Circle,
Chennai-28.

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

+1cc to Mr.R.Sivaraman, Advocate Sr.64202
+1cc to the Government Pleader Sr.63895

WP.Nos.38715 to 38719 of 2016&
WMP.Nos.33170 to 33174 of 2016

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srg 02/12/2016