IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2016

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.9591 of 2016
and
W.M.P.No.8626 of 2016

Manjusree Plantations Limited,
New Hope Post,
The Nilgiris,
rep by its Director
M.A.Appanna ... Petitioner

Vs.

The Commercial Tax Officer,
Office of the Commercial Tax Officer,
Gudalur Assessment Circle,
Gudalur. ... Respondent

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorari to call for the records relating to the proceedings of the respondent in CST No.345516/2007-08 dated 17.08.2015 and quash the same.

For Petitioner : Mr.S.Raveekumar

For Respondent : Mr.V.Haribabu,
Additional Government Pleader (Tax)

O R D E R

The petitioner has filed the above Writ Petition to issue writ of certiorari to call for the records relating to the proceedings of the respondent in CST No.345516/2007-08 dated 17.08.2015 and to quash the same.

2.According to the petitioner, they are an assessee on the file of the respondent. The petitioner cultivates Coffee, Cardamom, etc and send them to their Head Office at Kolkata. The interstate transaction of branch transfer is covered by F Forms. Upon receipt of the goods, the Kolkata Office sends the F Forms to the petitioner. For the year 2007-08, the Kolkata Office did not send the F Forms. The respondent passed the assessment order on 11.08.2014 demanding higher rate of tax and penalty at 150%. For non-submission of Forms, only higher rate of tax can be demanded and no penalty can be levied. By order dated 17.08.2015, the respondent passed the impugned orders demanding the balance tax and penalty proportionately.

3.Mr.V.Haribabu, learned Additional Government Pleader (Tax) taking notice for the respondent submitted that since there is no provision to levy penalty, the impugned order passed by the respondent is liable to be set aside.

4.The learned counsel for the petitioner submitted that the petitioner is willing to pay the tax amount of Rs.2,49,185/- and three weeks time may be granted to pay the same.

5.Having regard to the submissions made by the learned counsel on either side, since there is no provision to levy penalty, the impugned order dated 17.08.2015 is liable to be set aside. Accordingly, the same is set aside. The petitioner is directed to pay the tax amount of Rs.2,49,185/- (Rupees two lakhs forty nine thousand one hundred and eighty five only) before the respondent within a period of three weeks from the date of receipt of a copy of this order.

6.With these observations, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

va

To

The Commercial Tax Officer,
Office of the Commercial Tax Officer,
Gudalur Assessment Circle,
Gudalur.

+1cc to Mr.S.Raveekumar, Advocate, S.R.No.16498
+2cc's to the Government Pleader, S.R.Nos.16471 & 16476

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PUR(CO)
CA(17/03/2016)