IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.25481 of 2004

Tvl.Maheswari Industries
No.74, Sembudoss Street
Chennai - 600 001 ... Petitioner

vs.

1. The Appellate Assistant Commissioner (CT)-I
   Kuralagam Annexe, VI Floor
   Chennai 108

2. The Deputy Commercial Tax Officer
   Harbour - III Assessment Circle
   Chennai-1 ... Respondents

Prayer:Writ Petition filed Under Article 226 of the constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Calling for the records on the file of the 1st respondent in M.P.No.7 of 2004 dated 1.3.04 and quash the same as illegal and direct the 1st respondent to entertain the appeal filed by the petitioner and decide the same on merits.

For Petitioner : Mr.S.Ramesh Kumar

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the orders passed by the Appellate Assistant Commissioner dated 01.03.2004 rejecting the petitioner's appeal petition on the ground that the petitioner has not complied with the pre-deposit as required under the Act.

2. Admittedly, the law which is prevailing on the date when the application is entertained alone will prevail. Thus, the first respondent was justified in directing the petitioner to pre-deposit 25% of the disputed tax to enable the petitioner to prosecute the appeal. The interpretation given by the petitioner is that for filing the appeal for the assessment year 1991-92, cause of action arose at Madras on 19.02.1993 when Act 14 of 1999 or Act 19 of 2002 were not enacted and therefore, giving retrospective application of the law is erroneous.

3. The said contention does not merit acceptance. It is a well settled principle that the law which is prevailing when an application or appeal is filed, would be the law which will be applicable to the proceedings. Therefore, necessarily the petitioner has to pre-deposit 25% of the disputed tax to enable them to prosecute the appeal. In the light of the above, the prayer sought for by the petitioner cannot be granted.

Accordingly, the writ petition is dismissed. However, the petitioner is given eight weeks time to deposit 25% of the disputed tax to prosecute the appeal before the first respondent. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Appellate Assistant Commissioner (CT)-I,
Kuralagam Annexe, VI Floor,
Chennai 108.

2. The Deputy Commercial Tax Officer,
Harbour - III Assessment Circle,
Chennai-1.

+1cc to M/S.S.Ramesh kumar, Advocate Sr.31440
+1cc to Special Government Pleader Sr.30847

W.P.No.25481 of 2004

rsi[co]
srg 30/06/2016