



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2016

C O R A M

WEB COPY

THE HONOURABLE DR. JUSTICE S. VIMALA

Writ Petition (MD) No.18881 of 2016
and
WMP. (MD) No.13662 of 2016

M/s.T.M.J.Textiles & Readymades,
Rep. by its Proprietor
M.Jeyaraja

.. Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT) (FAC),
1st Floor, Commercial Taxes Building,
Reserve Line, Tirunelveli,
Tirunelveli District.

2. The Deputy Commercial Tax Officer,
Ettayapuram Assessment Circle,
Ettayapuram, Tuticorin District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in his proceedings in Na.Ka.AA.1/581/16, dated 30.08.2016 and quash the same as illegal and consequently direct the 1st respondent to entertain the Appeal filed under section 51 & 52 of TNVAT Act on merits.

For petitioner ... Mr.J.Jeyakumaran

For Respondents ... Mr.R.Karthikeyan

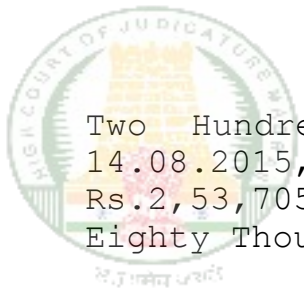
Additional Government Pleader

O R D E R

The Appellate Deputy Commissioner, Commercial Taxes, Tirunelveli, by order dated 30.08.2016, has dismissed the petitioner's appeal only on the ground of limitation.

2.The learned counsel for the petitioner submitted that the petitioner has arguable case on merits and the appellate authority ought not to have dismissed the appeal only on the ground of limitation.

3.It is the claim of the learned counsel for the petitioner that the tax payable was only Rs.11,234/- (Rupees Eleven Thousand



Two Hundred and Thirty Four Only), but by the order dated 14.08.2015, the petitioner has been called upon to pay a sum of Rs.2,53,705/- as tax and a sum of Rs.3,80,557/- (Rupees Three Lakhs Eighty Thousand Five Hundred and Fifty Seven Only) as penalty.

4.The learned counsel for the petitioner would also submit that in order to show the *bona fide*, the petitioner is prepared to pay the entire tax amount of Rs.2,53,705/- and the petitioner must be given an opportunity of prosecuting the appeal on merits.

5.Under such circumstances, the petitioner is directed to pay the tax of Rs.2,53,705/- (Rupees Two Lakhs Fifty Three Thousand Seven Hundred and Five Only) within a period of four weeks from the date of receipt of a copy of this order and on such payment being made, the order of the appellate authority shall stand set aside. The matter is remitted back to the first respondent, who shall decide the case on merits and in accordance with law, within a period of four weeks thereafter.

6.The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT) (FAC),
1st Floor, Commercial Taxes Building,
Reserve Line, Tirunelveli,
Tirunelveli District.

2. The Deputy Commercial Tax Officer,
Ettayapuram Assessment Circle,
Ettayapuram, Tuticorin District.

+ 1 CC TO Mr.J.JEYAKUMARAN, ADVOCATE IN SR No. 57698
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 58302

RJ2

TE/DB/SAR-II : 21/10/2016 : 2P/5C

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