BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM

**THE HON'BLE Dr.JUSTICE S.VIMALA**

W.P(MD) No.19864 of 2016
and
WMP(MD)No.14344 of 2016

M/s.Vaibhav Cartons Private Ltd.,
rep.by its Managing Director,
R.Neelesh Parekh ... Petitioner

-vs-

1.The Assistant Commissioner (CT)
Woraiyur Assessment Circle,
Trichy, Trichy District.

2.The Appellate Deputy Commissioner (CT)
Commercial Taxes building,
Court Campus,
Cantonment,
Trichy, Trichy District. ... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd respondent herein to dispose the petitioner's appeal under section 51 of Tamil Nadu Value Added Tax Act, 2006 dated on 11.3.2016 within a stipulated period as may be fixed by this Court.

For Petitioner : Mr.R.Sundar
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

**O R D E R**

This Writ Petition has been filed, seeking a direction to the second respondent to dispose of the petitioner's appeal filed under section 51 of Tamil Nadu Value Added Tax Act, 2006 dated on 11.03.2016

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who takes notice for the respondents. By consent the writ petition itself is taken up for final disposal at the admission stage.



3.The petitioner firm filed returns for the year 2013-2014 and the same has been assessed on 31.10.2014. After a lapse of several months, the first respondent issued show cause notice, holding that the returns are having defects and thereby called for explanation. For which, the petitioner has given explanation. But without considering the same, the first respondent has directed the petitioner to pay the tax due as well as penalty at the rate of 150%. Against which, the petitioner has preferred an appeal before the second respondent on 11.03.2016 with the petition to condone the delay. Pending appeal, the second respondent insisted the petitioner firm to pay the arrears of tax amount. Therefore, the petitioner is before this Court.

4.The learned counsel appearing for the petitioner would submit that as per Section 51 of the Tamil Nadu Value Added Tax Act, 2006, the second respondent is empowered to condone the delay in filing the appeal. As this provision was not invoked, while the appeal was presented before the appellate authority and the appeal itself is kept pending, this Writ petition has been filed for a direction to the second respondent to dispose of the appeal within a stipulated time as may be fixed by this Court.

5.As the delay is only negligible (ie.,) 3 days, there may not be any impediment for the appellate authority to condone the delay and to take the appeal for consideration on merits. If the delay is condoned and the appeal is taken on file, the appeal shall be disposed of within a period of four months from the date of receipt of a copy of this order.

6.The Writ Petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.14344 of 2016 is closed.

Sd/-
Assistant Registrar(Crl.side)

/True Copy/

Sub Assistant Registrar

To
1.The Assistant Commissioner (CT)
Woraiyur Assessment Circle,
Trichy, Trichy District.

2.The Appellate Deputy Commissioner (CT)
Commercial Taxes building,
Court Campus, Cantonment,
Trichy, Trichy District.

+1 cc to MR.R.SUNDAR, Advocate SR.No.61115
+1 cc to Special Government Pleader SR.No.61414

WP(MD)No.19864 of 2016
18.10.2016



SMA/DB/18.11.2016:2P/5C