IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2017

CORAM

THE HONOURABLE MR.JUSTICE RAJIV SHAKDHER

W.P.No.536 of 2017
And
W.M.P.Nos.561 and 562 of 2017

M/s.J.P.Traders,
Rep. by its Proprietor,
M.Jothi ... Petitioner

Vs.

1 The Commercial Tax Officer (CT),
Arcot Assessment Circle,
Arcot, Vellore District.

2 The Appellate Deputy Commissioner of
Commercial Taxes,
CT Buildings,
Vellore. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the 1st Respondent in TIN No.33764580159/ 2009 - 2010 dated 20.10.2014 and the consequential Order of the 2nd Respondent in A.P.No.12 of 2015 dated 13.10.2015 and quash the same as illegal, arbitrary and against the provisions of the Act.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.K.Venkatesh
Government Advocate

O R D E R

1.Issue notice. Mr.K.Venkatesh, learned Government Advocate, accepts notice on behalf of the respondents. With the consent of the counsels for the parties, the writ petition is taken up for hearing and final disposal.

2.The petitioner has assailed vide this writ petition, order dated 13.10.2015, passed by the Appellate Deputy Commissioner of Commercial Taxes.

3.Counsel for petitioner says that the said appellate authority has mis-directed itself in law by dismissing the appeal on the ground that the order-in-original was passed under Section 41 of the Tamil Nadu Value Added Tax Act, 2006.

4.My attention has been drawn to the order-in-original dated 20.10.2014. This order has been passed by the Commercial Tax Officer (CT). A perusal of the order would show that it has been passed under Section 27 of the Tamil Nadu Value Added Tax Act, 2006 and not under Section 41 of the said Act as has been indicated in the impugned order.

5.It is common ground, as advanced by counsels before me, that an appeal would be maintainable before the Appellate Deputy Commissioner.

5.1.Furthermore, this fact is also discernible upon a basic perusal of the impugned order, wherein, the Appellate Deputy Commissioner has indicated the orders from which appeal would lie to him under Section 51 of the Tamil Nadu Value Added Tax Act, 2006. Accordingly, the impugned order is set aside. The Appellate Deputy Commissioner is directed to pass a fresh order in the appeal on merits, after affording due opportunity to the petitioner.

6.The writ petition is disposed of with the aforesaid directions. No costs. Consequently, pending applications are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
1 The Commercial Tax Officer (CT),
Arcot Assessment Circle,
Arcot, Vellore District.
2 The Appellate Deputy Commissioner of
Commercial Taxes,
CT Buildings,
Vellore.

+1cc to Mr.K. Soundaranjur, Advocate, S.R.No.1868
+1cc to the Government Pleader, S.R.No.2112

ad(CO)
md(06/02/2017)

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