IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.04.2017

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.6443 and 6444 of 2017
and
W.M.P.Nos.6953 and 6954 of 2017

Tvl. Arul Medicals,
Rep by its proprietor Mr. K.Arul,
89, Main Road,
Ulundurpet. 606 107.
Villupuram. District. ...Petitioner in both W.Ps.

Vs.

1. The Deputy Commercial Tax Offier,
Tirukoilur Assessment Circle,
Tirukoilur.
Villupuram. District.

2. The Appellate Deputy Commissioner [CT],
C.T. Building, Cuddalore.
(R2 impleaded as per order
dated 24.03.2017 by KRCBJ in
W.M.P.No.7782 to 7785/2017) ...Respondents in both W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records on the files of 2nd respondent in RC.No.486/2016/A/CR-1 and RC.No.485/2016/A/CR-1 respectively dated 25.07.2016 and the assessment proceedings of the first respondent in TIN/33084761438/2014-15 and TIN/33084761438/2013-14 respectively dated 13.04.2016 and quash the same being violated the principles of natural justice, illegal, invalid and against the law and also law laid down by this Honourable court.
(Prayers amended as per order of Court dated 24.03.2017 in WMP.Nos.7782 to 7785/2017)

For Petitioner : Mr.D.Vijayakumar

For Respondents : Mr.S.Kanmani Annamalai
Addl.Govt.Pleader.

COMMON ORDER

These writ petitions are filed challenging the order of the Assessing Authority and the order of the Appellate Authority in respect of the assessment years 2014-2015 and 2013-2014 respectively.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents in both the Writ Petitions.

3. It is seen that the petitioner, who is one and same in both the writ petitions, is aggrieved against the order of Assessing Authority in respect of assessment years 2013-2014 and 2014-2015. It is seen that the petitioner has filed the appeals against the orders of assessment before the statutory Appellate Authority and however, those appeals were dismissed only on the ground that they were not filed within the time and there was a delay of 32 days.

4. It is stated by the learned counsel appearing for the petitioner that the issue involved in these writ petitions is one and the same and the Assessing Authority has passed the assessment orders based on Web Report.

5. Considering the fact that the petitioner has already chosen to file the statutory appeals before the Appellate Authority and the said appeals were dismissed only on the ground of delay, without going into the merits of the matter, I am of the view that the petitioner must raise all the contentions raised before this Court before the Appellate Authority, since the Appellate Authority is also a fact finding authority.

6. Considering the fact that the delay in filing the appeals was only 32 days and the Appellate Authority has not gone into any of the merits of the matter, I am of the view that the petitioner should be given an opportunity to agitate the matter before the Appellate Authority on merits.

7. Accordingly, both the Writ Petitions are allowed in part, as follows:

i)The orders of the Appellate Authority dated 25.07.2016 is set aside and the matter is remitted back to the Appellate Authority for considering the appeals on its own merits and in accordance with law.

ii) The Appellate Authority shall given due opportunity of hearing to the petitioner before deciding the appeals.

iii) The Appellate Authority shall complete the entire exercise within a period of twelve weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar(CSIII)

True Copy

Sub-Assistant Registrar

vsi

Note:
Registry is directed to return the
original impugned orders to the petitioner.

To
1. The Deputy Commercial Tax Officer,
 Tirukoilur Assessment Circle, Tirukoilur, Villupuram. Dist

2. The Appellate Deputy Commissioner [CT],
 C.T. Building, Cuddalore.

+1 cc to M/s.D.Vijayakumar Advocate sr 21117
+1 cc to Special Government Pleader taxes sr 21323

W.P.Nos.6443 & 6444 of 2017

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