IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.4496 of 2017
and
W.M.P.Nos.4721 and 4722 of 2017

TVL. Gurusamy Agencies,
Represented by its Proprietor
No.4A-1 Kumbakonam Road,
Panruti – 607 106 ...Petitioner

Vs.

Deputy Commercial Tax Officer,
Panruti (Town) ...Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records of the respondent in Assessment Order in TIN 33224481904/2015-16 dated 24.10.2016 and quash the same as illegal and unconstitutional and also to direct the respondent to consider the Form K submitted by the petitioner and pass fresh orders in accordance with law as provided under Sec.3(4) of the TNVAT Act.

For Petitioner : Mr.R.Ganesh Kanna

For Respondent : Mr.K.Venkatesh,
Government Advocate.

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O R D E R

This writ petition is filed challenging the order of assessment dated 24.10.2016 passed in respect of the assessment year 2015-2016.

2. Heard both sides.

3. The grievance of the petitioner is that the Assessing Officer imposed tax liability at the rate of 14.5% when the petitioner is liable to pay only at the rate of 0.5%.

4. It is not in dispute that before passing the order of assessment, a notice of proposal dated 15.09.2016 was issued to the petitioner and they also filed their objection followed by a personal hearing. After, considering the objection raised by the petitioner, the Assessing Officer passed the impugned order of assessment by fixing the tax liability at the rate of 14.5%. Whether the petitioner is liable to pay 0.5% or 14.5% is the matter involving consideration of factual aspects and therefore, the same has to be considered and decided by the next fact finding authority viz., the first Appellate Authority. Instead of filing such appeal, the petitioner has approached this Court and filed the present writ petition. As the Assessing Officer has followed the principles of natural justice and passed the impugned order, it is for the petitioner to canvass the correctness or otherwise of the said order before the Appellate Authority by filing a regular appeal as provided under the statute. Therefore, I do not find that the writ petition can be the only

remedy available to the petitioner, at this stage. Accordingly, this writ petition is disposed of by granting liberty to the petitioner to file an appeal before the first Appellate Authority within a period of three weeks from the date of receipt of a copy of this order. If any such appeal is filed, the Appellate Authority will consider the same on its own merits and in accordance with law without reference of the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

07.06.2017

vsi
Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order

To
Deputy Commercial Tax Officer,
Panruti (Town)

K.RAVICHANDRABAABU,J

vsi

W.P.No.4496 of 2017

07.06.2017