IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.31803 and 31804 of 2017
and WMP.Nos.34948 to 34951 of 2017

M/s.Preethams
Rep. By its Managing Partner-M.Balamurali Krishna
No.4/B, 1st East Cross Road
Gandhi Nagar
Katpadi,Vellore District ..Petitioner in both WPs.

-Vs-

1.The Commercial Tax Officer
Gudiyatham (East) Circle
Gudiyatham,Vellore District

2.The Appellate Deputy Commissioner (CT)
Vellore, Vellore District ..Respondents in both Wps.

Prayer in W.P.No.31803 of 2017:- Writ Petition filed praying to issue a writ of Certiorari, to call for the records on the file of the 2nd respondent made in Appeal No. and year: 49/14 dated 05.11.2014, quash the same as illegal and contrary to the scheme of the Act.

Prayer in W.P.No.31804 of 2017:- Writ Petition filed praying to issue a writ of Certiorari, to call for the records on the file of the 2nd respondent made in Appeal No. and year: 51/14 dated 05.11.2014, quash the same as illegal and contrary to the scheme of the Act.

For petitioner : Mr.S.Rajasekar
For respondents : Mrs.Narmadha Sampath, Spl.G.P.

ORDER

Heard Mr.S.Rajasekar, learned counsel for the petitioner and Mrs.Narmadha Sampath, learned Special Government Pleader, accepting notice on behalf of the respondents. With the consent of learned counsel appearing on either side, these Writ Petitions are taken up for final disposal.

2. The petitioner has filed the above Writ Petitions, challenging the order passed by the Appellate Deputy Commissioner (CT) dated 05.11.2014. By the impugned order, the Appellate Authority has dismissed the petitioner's appeal petition and confirmed the order of assessment. As against the impugned order, the petitioner has effective appellate remedy by approaching the Sales Tax Appellate Tribunal. However, the petitioner has not done so. But by citing certain personal reasons, they are now before this Court, challenging the order passed by the Appellate Authority.

3. On the grounds raised by the Petitioner, the Writ Petitions cannot be entertained and it has to be summarily dismissed. However, one factor which has to be taken note of is that though the impugned order was passed on 05.11.2014, till date, the 1st respondent, viz., the petitioner's Assessing Officer has not been able to recover even a part of the tax, which has been assessed on the Petitioner, consequent to the order of assessment dated 24.01.2014. Therefore, this court, with a view to secure the interest of revenue, is inclined to grant liberty to the petitioner to file an appeal before the Appellate Tribunal, subject to conditions.

4. Considering the peculiar facts and circumstances of the case, the Writ Petitions are disposed of by giving liberty to the petitioner to file appeal before Sales Tax Appellate Tribunal, subject to the condition that the Petitioner pays the entire tax as quantified for the assessment years by the Assessing Officer and if such payment is made within a period of four weeks from the date of receipt of a copy of this order and the appeal is presented before the Appellate Tribunal along with the Payment Receipt, the Sales Tax Appellate Tribunal, shall entertain the appeal without reference to the limitation. However, if the petitioner fails to comply with the condition within the time permitted, the benefit of this order will not enure to the petitioner and the Writ Petitions will stand automatically dismissed, without further reference to this court, leaving it open to the 1^{st} respondent to recover the tax and penalty as quantified.

The Writ Petitions are disposed of on the above terms. No costs. Consequently, connected WMPs are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

nvsri

To

1.The Commercial Tax Officer
Gudiyatham (East) Circle
Gudiyatham
Vellore District

2.The Appellate Deputy Commissioner (CT)
Vellore
Vellore District

+2cc to Mr.R.Hemalatha, Advocate SR.No.87806
+1cc to Special Government Pleader SR.No.87943

Writ Petition No.31803 and 31804 of 2017

GN(27/12/2017)