IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.9.2017

CORAM :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.23808 of 2017 &
WMP.No.25022 of 2017

Veer Industrial Suppliers,
rep.by its Partner, Chennai-95. ...Petitioner

Vs

The Assistant Commissioner (CT),
Nolambur Assessment Cricle,
No.176-B, MTH Road, Villivakkam,
Chennai-49. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to to call for the records of the respondent in TIN 33871351211/2013-14 dated 05.1.2017 and quash the same as illegal, ultra vires and against the principle of natural justice.

For Petitioner : Ms.C.Rekha Kumari
For Respondent : Mr.S.Kanmani Annamalai, AGP

ORDER

Mr.S.Kanmani Annamalai, learned Additional Government Pleader accepts notice for the respondent. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner, which is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006, has filed this writ petition challenging an order of assessment for the year 2013-14.

3. Though several contentions have been raised by the learned counsel for the petitioner challenging the order of assessment, the foremost contention raised is by referring to an order passed by the Appellate Deputy Commissioner (CT), Chennai (South) in AP.No.33/17/VAT dated 05.7.2017 pertaining to the petitioner for the subsequent assessment year namely 2014-15. It is submitted by the learned counsel for the petitioner that an

identical issue has arisen in the impugned assessment also and the points to be determined are squarely covered by the order passed by the Appellate Authority dated 05.7.2017.

4. However, it is to be noted that the order passed by the Appellate Deputy Commissioner is much after the order passed by the Assessing Officer. Therefore, based on the order passed by the Appellate Authority, the impugned order cannot be set aside. Considering the fact that the petitioner succeeded for the subsequent assessment year before the Appellate Authority, this Court is of the view that the petitioner can be granted liberty to file an appeal though, as of now, the appeal remedy is time barred.

5. Considering the peculiar facts and circumstances of the case, the writ petition is disposed of by giving liberty to the petitioner to file an appeal before the Appellate Deputy Commissioner (CT), Chennai (South) within a period of 15 days from the date of receipt of a copy of this order. If such appeal is presented, the Appellate Authority shall entertain the appeal without reference to the issue of limitation and proceed further in accordance with law. Since the Appellate Authority is not a party here, a copy of this order be marked to him. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT),
   Chennai(South)forthwith.
2. The Assistant Commissioner (CT),
   Nolambur Assessment Cricle,
   No.176-B, MTH Road,
   Villivakkam, Chennai-49.
3. The Section Officer, VR Section,
   High court, Madras.

+ 1 cc to M/s. C. Rekha Kumani, Advocate SR.63734
+ 1 cc to Government Pleader Sr.63842

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RR(CO)
EU(03/10/2017)