

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2017

CORAM

The Honourable Mr.JUSTICE RAJIV SHAKDHER

Writ Petition No.1689 of 2017
& WMP No.1655 of 2017

M/s.Jeetmall Sukanraj Co.

rep. by its Partner Usha B.Jain

No.87A, Govindappa Naicken Street,
Chennai - 600 001.

..... Petitioner

Vs.

1. The Appellate Deputy Commissioner (CT) (North)
3rd Floor, PAPJM Building,
No.1, Greams Road, Chennai - 600 006.

2. The Commercial Tax Officer,
Kothawalchavadi Assessment Circle,
Wawoo Mansion, Chennai - 600 001.

..... Respondents

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writ of Certiorarified Mandamus
calling for the records on the file of the first respondent to
admit the appeal filed on 12.09.2016 and decide the same on
merits and in accordance with law.

For Petitioner : Mr.P.Prithvi Chopda

For Respondents: Mr.K.Venkatesh, G.A.

O R D E R

1. Issue notice. Mr.K.Venkatesh, accepts notice on behalf
of the respondents.

1.1. With the consent of counsels for parties, the Writ
Petition is taken up for hearing and final disposal.

2. This Writ Petition is directed against the order dated
15.12.2016, whereby, respondent No.1 has rejected the appeal
filed by the Writ Petitioner, on the ground that the same is not
"entertainable".

3. It is the petitioner's case that respondent No.2 had revised the assessment order and estimated an addition of Rs.4,47,682/- vide order dated 29.07.2016.

3.1. The petitioner further avers, that via this order, tax, in the sum of Rs.22,384/- and penalty, in the sum of Rs.11,192/- was levied.

3.2. The petitioner claims that since, it was aggrieved by the order dated 29.07.2016, appeal was preferred. This appeal was filed with respondent No.1, evidently, on 12.09.2016.

3.3. The appeal filed was, however, put in defect on 13.10.2016 and, was returned to the petitioner for removal of defects on 31.10.2016.

3.4. The petitioner claims, that after removal of defects, the appeal was re-lodged on 08.11.2016, i.e., within the stipulated period of ten (10) days from the date when the appeal with defects had been actually returned to the petitioner, i.e., 31.10.2016.

3.5. It is also the petitioner's stand before me that, while re-lodging the appeal, a letter dated 07.11.2016 was also filed, wherein, it was clearly indicated, that tax, in the sum of Rs.22,384/- had been paid. A copy of the letter addressed to respondent No.2 along with the statement of accounts of the petitioner's banker, i.e., Tamil Nadu Mercantile Bank Ltd., for the relevant period i.e., from 01.07.2015 to 31.07.2015, has been filed with this Court.

3.6. It is, in these circumstances, that the petitioner says that the impugned order is unsustainable and, that respondent No.1 should have, therefore, heard the appeal on merits.

4. I have put these aspects to Mr.Venkatesh, who appears on advance notice on behalf of the respondents. Mr.Venkatesh says that, if, tax has been paid, as claimed by the petitioner, then, their appeal can be ordered to be heard on merits.

5. Accordingly, the impugned order is set aside.

5.1. Respondent No.1 will hear the appeal on merits, if, the submissions made before me are found to be correct, which is, that tax in the sum of Rs.22,384/- as claimed, stood paid.

5.2. As a matter of fact, I may also advert in this behalf to the order dated 11.11.2016, passed by respondent No.2, which is indicative of the fact, that the tax, as claimed by the petitioner, has already been paid.

6. The Writ Petition is, thus, disposed of in the aforesaid terms. Resultantly, the connected Miscellaneous Petition stands closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Appellate Deputy Commissioner (CT) (North)
3rd Floor, PAPJM Building,
No.1, Greams Road, Chennai - 600 006.
2. The Commercial Tax Officer,
Kothawalchavadi Assessment Circle,
Wawoo Mansion, Chennai - 600 001.

+1cc to Mr.Pramodkumar Chopada, Advocate, S.R.No.4375

+1cc to the Government Pleader, S.R.No.4602

AD(CO)
EU 15.2.17

सत्यमेव जयते

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