IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2017

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.17055 of 2017
and W.M.P.No.18514 of 2017

M/s.S.S.Enterprises,
Rep. by its Proprietor Mr.M.Thajutheen
No.210/2, Chennai Salai,
L.N.Puram, Panruti. .. Petitioner

..Vs..

The Commercial Tax Officer,
Panruti (Rural). .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the respondent in TIN:33434501140/2013-14 dated 05.12.2014, quash the same. The impugned order is challenged on the ground of jurisdiction to impose penalty and violation of principles of natural justice.

For Petitioner : Mr.V.Sundareswaran

For Respondent : Mr.K.Venkatesh
Government Advocate

O R D E R

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate for the respondent. With the consent on either side, the writ petition itself is taken up for disposal.

2.The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) carrying on business in Iron, Steel and Cement. In this writ petition, the petitioner has challenged an order dated 05.12.2014 which is an assessment order under the provisions of the TNVAT Act for the year 2013-14. By the impugned order, the respondent has demanded Rs.2,33,298/- as tax and penalty of Rs.3,49,951/- under Section 27(3) of the TNVAT Act and Rs.2,28,758/- under Section 27(4) of the TNVAT Act.

3.Admittedly, the impugned order is an appealable order. However, it is submitted that the petitioner is a very small dealer and on account of the lack of proper legal advise, the petitioner did not prefer an appeal but remitted 25% of the tax as demanded in the impugned assessment order. It is further submitted that one more opportunity may be granted to the petitioner to file an appeal against the impugned order considering the peculiar facts and circumstances of the case.

4.I have heard the learned Government Advocate on the above submissions.

5.Taking note of the fact that the petitioner is a small dealer and the petitioner has already remitted 25% of the tax, this Court is inclined to grant opportunity for the petitioner to prefer an appeal as against the impugned assessment order.

6.Accordingly, the writ petition is disposed of by directing the petitioner to file an appeal before the Appellate Authority within a period of thirty days from the date of receipt of a copy of this order. Till such an appeal is filed and the petitioner moves for stay before the Appellate Authority, no coercive action shall be initiated by the respondent for recovering the balance tax and penalty levied in the impugned assessment order.

7.With the above observations, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III )

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer,
Panruti (Rural).

+ 1 cc to M/s.Sundareswaran Advocate,SR.47912

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SKS(CO)
NR 26/07/2017