IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.28862 of 2017 & W.M.P.No.31077 of 2017

Tvl G.L. Prasad ...Petitioner

.Vs.

1. The State of Tamil Nadu,
   Represented by the Secretary,
   Commercial Taxes and Registration Department,
   Fort St. George, Chennai-9.

2. The Assistant Commissioner(CT)
   Tambaram Asst Circle,
   Chennai - 600 045.

3. Deputy Commercial Tax Officer,
   Tambaram Assessment Circle ...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the record of the 2nd respondent and quash the assessment proceedings in TIN 33616307957/2015-2016 dated 04.01.2017 and pass orders.

For Petitioner : Mr. R. Sivakumar
For Respondents : Mr. K.Venkatesh GA (Taxes)

O R D E R

Heard R.Sivakumar learned counsel for the petitioner and Mr. K.Venkatesh, learned Government Advocate accepting notice on behalf of the respondents.

2. The petitioner, who is a registered dealer under the provisions of the Tamil Nadu Value Added Tax Act, 2006 on the file of the second respondent, has challenged the assessment order passed by the third respondent dated 04.1.2017 for the assessment year 2015-16.

3. The reason for challenging the assessment order by way of filing this writ petition is on the ground that the petitioner filed a revision petition as against the said order before the Joint Commissioner (ST), Chennai East Division, III Floor, PAPJM

Building, Greams Road, Chennai-6. The revision petition was filed on 27.03.2017, which has been returned to the petitioner, as it has been filed beyond the period of limitation.

4. The respondent would state that the petitioner ought to have filed the revision petition on or before 20.03.2017, but has filed on 27.03.2017 beyond the condonable limit as provided under Section 54(1) of the said Act.

5. The Revisional Authority was justified in observing that he has no power to condone the delay beyond the condonable limit. However, when he takes such a stand, he should have acted with promptitude and immediately returned the papers to the petitioner. However, the petitioner received the papers on 03.10.2017 pursuant to the order dated 25.09.2017 returning the revision petition, which was filed on 27.03.2017. Thus, considering the manner, in which, the revision petition has been dealt with by the Department and also taking note of the legal issues raised by the petitioner in the grounds of revision, this Court is inclined to grant one more opportunity to the petitioner to pursue his revision petition on merits. However, this indulgence is granted considering the peculiar facts and circumstances of the case, more particularly on account of the delay in returning the revision papers.

6.Thus, for the above reasons, the writ petition is disposed of with a direction to the petitioner to represent the revision petition before the Joint Commissioner (ST), Chennai East Division, III Floor, PAPJM Building, Greams Road, Chennai-6, within one week from the date of receipt of a copy of this order and if the same is represented, the Revisional Authority shall not reject the petitioner's revision petition on the ground of limitation, but shall proceed to consider the same on merits and in accordance with law subject to fulfillment of other conditions prescribed under the said Act. Since the Revisional Authority is not impleaded as party to this case, Registry is directed to issue a copy to the Joint Commissioner (ST), Chennai East Division, III Floor, PAPJM Building, Greams Road, Chennai-6. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To.
1. The Secretary
Commercial Taxes and Registration Department
Fort St. George, Chennai-9

2. The Assistant Commissioner(CT)
Tambaram Asst Circle
Chennai - 600 045.

3. Deputy Commercial Tax Officer,
Tambaram Assessment Circle

4.The Joint Commissioner (ST),
Chennai East Division, III Floor,
PAPJM Building,
Greams Road, Chennai-6.

+1 cc to the Spl Govt Pleader (taxes) sr 83320

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