IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP No.3317 of 2007 &
MP No. 1 of 2007

M/s.Hatsun Agro Products (P) Ltd.,
No. 5-A Vijayaraghava Road,
T.Nagar, Chennai-600 017. ... Petitioner

Vs.

1. The Appellate Assistant Commissioner (CT)-III,
Chennai- 108.

2. The Commercial Tax Officer,
T.Nagar Assessment Circle,
Chennai. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a of Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings in A.P.No. 164/2006, quash the order dated 04.01.2007 made therein and further direct the first respondent to entertain the appeal in A.P.No. 164/2006 and decide the same on merits in accordance with law.

For Petitioner : Mr.B.Raveendran

For Respondents : Mr.K.Venkatesh
Government Advocate

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O R D E R

Heard Mr.B.Raveendran learned counsel appearing on behalf of the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents.

2. In this writ petition, the petitioner seeks for quashing the order passed by the first respondent in A.P.No.164 of 2006, dated 04.01.2007, by which, the first respondent refused to entertain the petitioners' appeal, as against the order of revised assessment under the Tamil Nadu General Sales Tax Act,

1959, dated 31.07.2006, for the assessment year 2003-04. On account of certain developments, which have taken place during the pendency of the writ petition, it may not be necessary for this Court to decide the issue, which has been raised in the writ petition.

3. The petitioner had submitted an application to the Joint Commissioner (CT), Central Division, Chennai-600 006, under Section 5(1) of the Tamil Nadu Sales Tax (Settlement of Arrears) Ordinance, 2011, and the application has been taken on file by the said authority. However, till date, no orders have been passed by the said authority. The embargo for entertaining such an application for settlement is that, no appeal should be pending before an appellate authority. Admittedly, in the instant case, the appeal filed by the petitioner in A.P.No.164 of 2006, has been rejected as not maintainable. Therefore, as against the assessment order, no appeal is pending and the Joint Commissioner, would be well within his jurisdiction to consider the petitioner's application for settlement of the arrears.

4.Accordingly, while leaving open the legal issue raised in this writ petition, there will be a direction to the Joint Commissioner (CT), Central Division, Chennai-600 006, to dispose of the petitioner's application filed under the Samadhan Scheme, dated 09.03.2012 (Letter Delivery Book), and pass orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//



Sub Assistant Registrar

bsm

To

1. The Appellate Assistant
   Commissioner (CT)-III,
   Chennai- 108.

2. The Commercial Tax Officer,
   T.Nagar Assessment Circle,
   Chennai.

3. The Joint Commissioner (CT)
Central Division, Chennai 600 006.

+ 1 cc to Mr. Government Pleader SR.78615
+ 1 cc to M/s. B. Ravindran, Advocate sR.78502

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