BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.04.2017

CORAM:
THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P.(MD).No.8101 of 2017 and
W.M.P.(MD).No.6231 of 2017

Sri Thaila Traders,
Rep. by its Proprietor,
S.Senthilkumar,
No.59,Balaji Nagar 6th Street,
Medical College Road,
Thanjavur. ...Petitioner

Vs.

1.The Appellate Deputy Commissioner(CT),
C.T. Buildings,
Sachidananda Moopanar Road,
Thanjavur.

2.The Commercial Tax Officer,
Thanjavur-II Assessment Circle,
C.T. Buildings,
Sachidananda Moopanar Road,
Thanjavur. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the first respondent to receive the Appeal Memorandum returned vide Na.Ka.90/2017/A dated 27.02.2017 and decide the same on merits and in accordance with law without rejecting the same on the ground of non-payment of pre-condition deposit of the disputed tax.

For Petitioner : Mr.K.Soundararajan
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader

O R D E R

This Writ petition has been filed by the petitioner, directing the first respondent to receive the Appeal Memorandum returned vide Na.Ka.90/2017/A dated 27.02.2017 and decide the same on merits and in accordance with law without rejecting the same on the ground of non-payment of pre-condition deposit of the disputed tax.

2. Heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The grievance of the petitioner is that the Statuary

appeal filed before the first respondent is returned on the ground that the full amount of 25% tax, demanded has not been deposited.

4. The learned Counsel appearing for the petitioner submitted that the petitioner has given sufficient reasons for the delay and the return of the appeal on the ground of non-production of Medical Certificate is not warranted. He submits that the petitioner is willing to deposit 25% of disputed tax.

5.Having regard to the provisions of the Act, this Writ Petition is allowed and the order, dated 27.02.2017, returning the appeal is set aside. The petitioner is directed to represent the appeal with the full amount of 25% of tax or with the proof of payment of 25% of the tax within 3 weeks from the date of receipt of this order.

6. It is open to the first respondent to consider the request of the petitioner to condone the delay on merits and in accordance with law with in a period of twelve weeks from the date of receipt of a copy of this order.

7. Accordingly, this petition is allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar

To
1.The Appellate Deputy Commissioner(CT),
C.T. Buildings,
Sachidananda Moopanar Road,
Thanjavur.

2.The Commercial Tax Officer,
Thanjavur-II Assessment Circle,
C.T. Buildings,
Sachidananda Moopanar Road,
Thanjavur.
+1cc to M/s.K.Soundararajan,Advocate,SR.54487
+1cc to M/S THE SPECIAL GOVERNMENT PLEADER, SR.NO.55404

W.P.(MD).Nos.8101 of 2017 and
W.M.P.(MD).No.6231 of 2017
(¾)
27.04.2017

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KK/SVMMS/SAR1-13.06.2017-2P-5C