IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.20217 of 2018
and
WMP.No.23685 of 2018

M/s.Siva Chemicals
Represented by its Partner
Tmt.R.Ramya
11/6A, Shed-C, Kallathupatty Post,
Pappireddipatti Taluk,
Dharmapuri District-635 302. .. Petitioner

Vs.

The Commercial Tax Officer / The State Tax Officer
Harur Assessment Circle
Harur, Dharmapuri District. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records on the files of the respondent in CST.No.449667/2013-14 dated 10.09.2015 and connected demand notice issued in ம வி வி ச 56-449667/2013-14 ந/க/எண்/௮௨௦/௨௦௧௮/அ௩ நாள் 05/06/2018 and quash the same as being without jurisdiction, authority of law and against the principles of natural justice.

For Petitioner : Mr.R.Senniappan
For Respondent : Ms.G.Dhana Madhri
Government Advocate (Tax)

O R D E R

Ms.Dhana Madhri, learned Government Advocate (Tax) takes notice for the respondent. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner, who is an Assessee, is aggrieved against the order of assessment dated 10.09.2015 passed in respect of the assessment year 2013-2014.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. By raising very many grounds on merits of the assessment, the petitioner is inviting this Court to exercise its discretionary jurisdiction over the order of assessment passed by the Assessing Authority, admittedly, three years back in respect of the assessment year 2013-2014. It is not the case of the petitioner that they have come to know about the order only recently. It is also not in dispute that as against the order of assessment, impugned in this writ petition, a statutory appellate remedy is available to the petitioner, which they have failed to exercise within time. When a statutory remedy of appeal is available, the scope for interfering with the order of assessment, by exercising the discretionary jurisdiction under Article 226 of the Constitution of India is limited, as the merits and contentions raised by the Assessee have to be considered and decided by the next fact finding authority viz., the Appellate Authority. Therefore, this Court is not inclined to entertain this writ petition. However, the petitioner is given liberty to file an appeal before the Appellate Authority, also by explaining the delay in filing such appeal. If any such appeal is filed with such explanation, it is for the Appellate Authority to consider the same and pass orders in accordance with law, as this Court is not expressing any view either on the merits of the matter or on the delay in approaching the Appellate Authority. If any such appeal is intended to be filed by the petitioner, the same shall be filed within a period of two weeks from the date of receipt of a copy of this order.

5. With the above observation, this writ petition is dismissed. The Registry is directed to return the original impugned order to the petitioner forthwith. No costs. Consequently, connected miscellaneous petition is closed.

mk Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To
The Commercial Tax Officer / The State Tax Officer
Harur Assessment Circle
Harur, Dharmapuri District
+1 cc to Mr.R.Senniappan Advocate SR.NO.54321
+1 cc to special government Pleader SR.NO. 54428

W.P.No.20217 of 2018

SNS(CO)
ASK(09/08/2018)