In the High Court of Judicature at Madras

Dated : 09.4.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition Nos.8292 & 8293 of 2018
& WMP.Nos.10254 to 10257 of 2018

M/s.T.R.V.Food Corporation,
rep.by its Partner S.Rajini Kanth ...Petitioner

Vs

1.The Commercial Tax Officer,
Panruti (Rural) Circle, Panruti,
Cuddalore District.

2.The Appellate Deputy Commissioner
(CT), Cuddalore, Cuddalore District. ...Respondents

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Certiorari to call for the records on the file of the 1st respondent in his impugned proceedings made respectively in TIN 33401262181/12-13 and TIN 33401262181/14-15 both dated 29.5.2015 and quash the same as illegal and arbitrary.

For Petitioner : Mr.S.Rajasekar

For Respondents : Mrs.G.Dhana Madhri, GA

COMMON ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petitions are taken up for joint disposal.

2. The petitioner has challenged the revised assessment orders passed by the Assessing Officer dated 29.5.2015 respectively for the years 2012-13 and 2014-15.

3. Though the petitioner seeks to quash the revised assessment orders, it is seen from the documents enclosed in the typed set of papers that the appeals presented by the petitioner as against the revised assessment orders were rejected by the second respondent on 19.10.2015 as time barred on the ground that they have been filed after 60 days. As per the report of

the Commercial Tax Officer, the orders of assessment were served on the petitioner on 13.7.2015. Therefore, 60 days' time expired on 12.9.2015.

4. Learned counsel for the petitioner, on verification of the calendar of the year 2015, submits that 12.9.2015 fell on Saturday and that the next working day would be 14.9.2015 and hence, the petitioner filed the appeals on 14.9.2015.

5. In turn, the learned Government Advocate has also referred to the calendar of the year 2015 from the computer and it appears that there is no dispute with regard to the fact that 12.9.2015 was a Saturday. The learned Government Advocate states that the said submission of the petitioner is incorrect, as the period of 60 days expired on 11.9.2015 as rightly held by the Appellate Authority.

6. This Court has also verified the calendar of the year 2015 and found that the period of 60 days expired on 11.9.2015, which was a Friday. Therefore, the petitioner should have filed the appeals on 11.9.2015 and therefore, the appeals are time barred. Hence, the Appellate Authority was right in rejecting the appeals. In the light of the above discussion, necessary consequence that has to follow is to dismiss the writ petitions. However, considering the fact that the petitioner is a very small dealer, that the tax implication is also marginal and that the petitioner has already paid 25% of the disputed tax in each of the cases, this Court is inclined to grant one opportunity to the petitioner, however, subject to a condition.

7. The writ petitions are disposed of with a direction to the petitioner to pay further 10% of the disputed tax in each of the cases within a period of three weeks from the date of receipt of a copy of this order. On production of receipts for proof of payment, the Appellate Authority is directed to entertain the appeals, hear and dispose of the matters on merits and in accordance with law. No costs. Consequently, the connected WMPs are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Commercial Tax Officer, Panruti (Rural) Circle, Panruti, Cuddalore District.

2.The Appellate Deputy Commissioner (CT), Cuddalore, Cuddalore District.

+2cc to Ms.R.Hemalatha, Advocate, S.R.No.26112

+1cc to the Special Government Pleader, S.R.No.26451

W.P.Nos.8292 & 8293 of 2018 and
WMP.Nos.10254 to 10257 of 2018

VGI(CO)

RRK(27/04/2018)