IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.04.2018

Coram

THE HON'BLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.7635 of 2018
and
W.M.P.Nos.9539 & 9540 of 2018

R.Venkatesan ...Petitioner

Vs.

The Commercial Tax Officer (Addl).
Tindivanam 604 001 ...Respondent

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the respondent in TIN No.33224722076/2014-15, dated 28.01.2016 and quash the same.

For Petitioner : M/s.Adithya Reddy

For Respondent : M/s.G.Dhanamadhri
Government Advocate

O R D E R

Heard M/s.Adithya Reddy, the learned counsel appearing for the petitioner and M/s.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondent. With consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

2. The petitioner, who is a registered dealer on the file of the respondent, under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act) has filed this Writ Petition, challenging the order of assessment, dated 28.01.2016, for the assessment year, 2014-15.

3. This Court would have been fully justified in rejecting the Writ Petition, challenging the impugned assessment order on the sole ground that the petitioner did not exhaust the alternate remedy available to them under the provisions of TNVAT Act. That apart, even if an Appeal is to be filed, the same would be barred by limitation and the Appellate Authority would have no jurisdiction to entertain the Appeal. However, the learned counsel for the petitioner pleads that, one more opportunity may be granted to the petitioner to putforth their

submission, especially, when the Authority has levied 150% penalty.

4. Considering the hardened facts, this Court, with a view to afford one more opportunity to the petitioner, is inclined to issue appropriate direction and subject to the compliance of this direction, the petitioner would be able to prosecute the matter further.

5. Accordingly, the Writ Petition is disposed of with a direction to the petitioner to pay 15% of the disputed tax within three weeks from the date of receipt of a copy of this order. If the petitioner complies with the said condition, they will be entitled to treat the impugned order as a show cause notice and submit their objections within a period of seven days therefrom. On receipt of the objections, the respondent shall afford an opportunity of personal hearing to the petitioner and redo the assessment in accordance with law. It is needless to add that the benefit of this order will not enure to the petitioner, if the petitioner fails to comply with the condition of payment of 15% of the disputed tax within the time stipulated. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS IX)

/true copy/

Sub Asst. Registrar

To

The Commercial Tax Officer (Addl).
Tindivanam 604 001

+1cc to The Special Government Pleader in sr.no.24956

W.P.No.7635 of 2018

gp(co)
nr 18/04/2018