In the High Court of Judicature at Madras

Dated : 17.1.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.974 of 2018 & WMP.No.1163 of 2018

Sri Vigneswara Sago Products,
rep.by its Managing Partner ...Petitioner

Vs

1.The Assistant Commissioner (CT),
Rasipuram.

2.The Joint Commissioner (CT) (RP),
Pitchards Road, Hasthampatty,
Salem-7. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records on the files of the second respondent herein in Roc.3704/2017/A7 dated 23.6.2017 as reiterated in Roc.3704/2017/A7 dated 14.9.2017 and quash the same while directing the second respondent herein to admit the revision petition filed by the petitioner on 03.4.2017 and arising out of the proceedings of the first respondent in TNGST/3162193/2003-04 dated 15.2.2017 and dispose the revision petition on merits.

For Petitioner : Mr.K.A.Parthasarathy for
Mr.N.Inbarajan
For Respondents : Ms.G.Dhana Madhri, GA

ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. In the light of the limited issue involved, the writ petition itself is taken up for final disposal even at the admission stage.

2. The petitioner is aggrieved by the intimations given by the second respondent returning the petitioner's revision petition as being presented beyond the time limit prescribed under Section 54(1) of the Tamil Nadu Value Added Tax Act, 2006. The assessment year in issue is 2003-04. In fact, for the

assessment years 2001-02, 2002-03 and 2003-04, assessments were completed and they were challenged before this Court by way of filing writ petitions. Those writ petitions were allowed by this Court and the matters were remanded for de novo consideration. After such consideration, the Assessing Officer confirmed the earlier orders, against which, the petitioner preferred petitions under Section 84 of the said Act by stating that there is a mistake to be rectified in the assessment orders. But, they were dismissed by separate orders dated 15.2.2017.

3. Challenging the orders dated 15.2.2017, the petitioner preferred three revision petitions before the second respondent, which have been acknowledged by the office of the second respondent on 03.4.2017. Out of three revision petitions, two revision petitions pertaining to assessment years 2001-02 and 2002-03 were heard and dismissed by the second respondent on merits, against which, the petitioner preferred further revision before the Additional Commissioner of Commercial Taxes and the same are pending.

4. However, for the assessment year 2003-04, the second respondent sent the impugned intimations stating that the revision petition was filed on 19.6.2017. It is further intimated that due to oversight, the acknowledgment was given for three revision petitions. But, the fact remains that only two revision petitions were filed.

5. This observation made in the impugned intimations is not supported by any document nor the petitioner was put on notice as to on what basis, the office of the second respondent came to the conclusion that the revision petition for the assessment year 2003-04 was presented only on 19.6.2017.

6. Be that as it may, since the second respondent has already taken a decision on merits for the assessment years 2001-02 and 2002-03, this Court is inclined to direct the second respondent to consider the revision petition for the assessment year 2003-04 and pass orders, as the issue involved in all the three assessment years is identical.

7. The learned Government Advocate would submit that only two revision petitions were filed by the petitioner.

8. However, this Court finds from the acknowledgment given that revision petitions were presented for all the three assessment years and the issue being common, the benefit should go to the assessee and this Court does not propose to deny the revisional remedy to the petitioner for the assessment year 2003-04.

9. For the above reasons alone, the writ petition is allowed, the impugned orders dated 23.6.2017 and 14.9.2017 are set aside and the petitioner is directed to represent the revision petition along with a copy of this order. The second respondent is directed to entertain the same and pass orders on merits and in accordance with law as has been done for the assessment years 2001-02 and 2002-03. It is made clear that this order shall not be treated as a precedent and it has been passed taking into consideration the peculiar facts and circumstances arising in this writ petition. No costs. Consequently, the connected WMP is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Assistant Commissioner (CT), Rasipuram.

2.The Joint Commissioner (CT)(RP), Pitchards Road, Hasthampatty, Salem-7.

+1cc to Mr.N.Inbarajan, Advocate, S.R.No.3192,3193

+1cc to the Spl.Government Pleader Taxes High Court, S.R.No.3910

W.P.No.974 of 2018 &
WMP.No.1163 of 2018

NMI(CO)
RRK(06/02/2018)