IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.04.2018

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition Nos.2976 to 2978 of 2018
and
W.M.P.Nos.3621 to 3625 of 2018

M/s. Sri Maruthi Constructions,
rep. by its Managing Partner,
D. Sivasankaran ...Petitioner in all W.P.s

Vs.

The Assistant Commissioner (CT)
Thiruvannamalai -I Circle,
Thiruvannamalai,
Thiruvannamalai District. ...Respondent in all W.Ps.

Prayer in W.P.Nos.2976 and 2977 of 2018

Writ Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the file of the respondent, in its impugned proceedings made in TIN : 33934522011/2013-14, 2014-15, respectively, dated 31.07.2017 and to quash the same.

Prayer in W.P.No.2978 of 2018

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records from the file of the respondent, in its impugned proceedings made in TIN : 33934522011/2015-16, dated 31.07.2017 and the consequential impugned proceedings, dated 12.01.2018 and to quash the same.

For Petitioner in all W.Ps. : Mr.S.Rajasekar
For Respondent in all W.Ps. : Mrs.G.Dhanamadhri
Government Advocate



COMMON ORDER

Heard Mr.S.Rajasekar, the learned counsel appearing for the petitioner and Mrs.G.Dhanamadhri, the learned Government Advocate, accepting notice on behalf of the respondents. With consent on either side, the Writ Petitions are 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, for brevity) has filed these Writ Petitions, being aggrieved by the assessment orders passed by the respondent under the provisions of the TNVAT Act for the assessment years 2013-14, 2014-15, 2015-16, respectively, dated 31.07.2017 and the consequential impugned proceedings, dated 12.01.2018.

3. The learned counsel appearing for the petitioner vehemently contended that, the objection given by the dealer has not been considered in a proper perspective, and the respondent has erred in not considering the documents filed by the petitioner.

4. On a careful reading of the impugned orders, I find that factual issues are involved and the Assessing Officer has considered the objections of the dealer and given certain reasons, as to why, the objections are not acceptable. Therefore, the petitioner, if aggrieved, has to necessarily file Appeal against the impugned assessment orders, as serious disputed questions of fact cannot be adjudicated in a Writ Petition. However, if the Appeal is to be filed as on date, the same is barred by limitation. In any event, since the Writ Petitions were entertained by the Court, during February, 2018, this Court is inclined to grant liberty to the petitioner to file Appeal before the Appellate Authority.

5. Accordingly, these Writ Petitions are disposed of, by directing the petitioner to file Appeal before the Appellate Deputy Commissioner (CT), Vellore, within 15 days from the date of receipt of a copy of this order. If the petitioner files Appeal within the said period, the Appellate Authority shall entertain the same without rejecting it on the ground of limitation, however, this is subject to the compliance of pre-deposit condition. Insofar as the notice issued by the respondent, dated 12.01.2018 is concerned, it is open to the petitioner to file suitable reply and contest the same before the Assessing Officer. No costs. Consequently, connected Writ Miscellaneous Petition is closed.



Sd/-
Assistant Registrar (CS II)

//True copy//

Sub Assistant Registrar

sd

To

1. The Assistant Commissioner (CT)
Thiruvannamalai -I Circle,
Thiruvannamalai,
Thiruvannamalai District.

2. The Appellate Deputy Commissioner (CT),
Vellore,

+3cc to Mr.R.Hemalatha, Advocate SR.No.26694
+1cc to Special Government Pleader(T) SR.No.27353

Writ Petition Nos.2976 to 2978 of 2018

SG(CO)
GN(09/05/2018)