In the High Court of Judicature at Madras

Dated : 13.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.14238 of 2018 & WMP.No.16811 of 2018

Tvl.United Agro Industries,
rep.by its Partner R.Ramkumar ...Petitioner

Vs

1.The Commercial Tax Officer,
Salem Rural Assessment Circle,
Salem.

2.The Joint Commissioner (CT),
Salem Division, Salem.

3.The Principal Secretary/Commissioner
of Commercial Taxes, Chennai-5. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the files of the second respondent in R.P.No.91/2016 dated 02.8.2017 and quash the same as being contrary to the circular issued by the third respondent in Circular No.26/2014/Q4/3534/2014 dated 16.6.2014.

For Petitioner : Mr.R.Senniappan
For Respondents: Mr.M.Hariharan, AGP

ORDER

Mr.M.Hariharan, learned Additional Government Pleader accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the order passed by the second respondent on the exercise of revisional powers rejecting the revision petition filed against the levy of tax and penalty by the Commercial Tax Officer by order dated 07.6.2016.

3. It may not be necessary for this Court to go into the merits of the matter, since the petitioner has an effective remedy by way of appeal in the form of a revision petition

before the Additional Commissioner (RP), Chennai-600005 under Section 57 of the Tamil Nadu Value Added Tax Act, 2006 and the limitation for filing such a revision is 30 days from the date of receipt of a copy of this order.

4. The learned counsel for the petitioner submits that the petitioner is ready and willing to approach the Revisional Authority, but the revision petition is likely to be rejected as barred by limitation, as the petitioner could not approach the Revisional Authority earlier on account of circumstances beyond their control.

5. Considering the fact that the provisions of the said Act provide for hierarchy of remedies, this Court is of the view that an opportunity can be granted to the petitioner to go before the Revisional Authority, who can decide the revision petition on merits. In the light of the above, the writ petition is not entertained.

6. Accordingly, the writ petition is disposed of by directing the petitioner to file a revision petition before the Additional Commissioner of Commercial Taxes (RP), Chennai-5 under Section 57 of the said Act within 15 days from the date of receipt of a copy of this order. If such revision is filed within the time permitted, the Revisional Authority shall entertain the same without rejecting it on the ground of limitation. No costs. Consequently, the connected WMP is closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

To
1.The Commercial Tax Officer,
Salem Rural Assessment Circle, Salem.
2.The Joint Commissioner (CT),
Salem Division, Salem.
3.The Principal Secretary/Commissioner
of Commercial Taxes, Chennai-5.
+ 1 cc to Mr.Senniappan, Advocate Sr.37372
+ 1 cc to Mr. Special Goverment Pleader Sr.37632

WP.No.14238 of 2018&
WMP.No.16811 of 2018

(CS-DR)
EU(25/06/2018)