IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.19137 of 2018
and
W.M.P.No.22509 of 2018

Tvl.Varma Medicals,
Rep., by its Proprietor
Thiru.K.M.Narayanan,
93 F, Thiruvoodal Street,
Thiruvannamalai. ... Petitioner

vs

The State Tax Officer,
(Erstwhile Commercial Tax Officer)
Thiruvannamalai I Assessment Circle,
Thiruvannamalai. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the respondent in TIN/33434521995/2015-16 dated 08.06.2018 and quash the same as arbitrary, illegal.

For Petitioner : Mr.S.Ramanan

For Respondent : Mrs.G.Dhana Madhri,
Government Advocate (Taxes)

O R D E R

Heard Mr.S.Ramanan, learned counsel for the petitioner and Mrs.G.Dhana Madhri, learned Government Advocate (Taxes) accepting notice on behalf of the respondent.

2.With the consent on either side, this writ petition is taken up for final disposal.

3.The petitioner has impugned an assessment order passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 (hereinafter referred to as “the TNVAT Act”) for the assessment year 2015-16.

4.On a perusal of the grounds of challenge, I find that they are factual and the matter requires deeper examination into the factual position, as most of which are disputed by the petitioner. Therefore, it is proper for the petitioner to file an appeal before the appellate authority, since the exercise which the petitioner now seeks before this Court cannot be done in a writ petition.

5.It is seen that the total tax due is Rs.18,12,700/- of which, the petitioner has paid a sum of Rs.4,58,990/-, which is more than 25%.

6.In the light of the above, this writ petition is disposed of by directing the petitioner to file an appeal before the appellate authority within a period of thirty days from the date of receipt of a copy of this order. If the appeal is filed, the appellate authority shall take into consideration the payment of tax made by the petitioner and entertain the appeal without rejecting the same on the ground of limitation or insisting upon any further payment towards mandatory pre-deposit of 25%. Till the petitioner moves for stay before the appellate authority, the respondent shall not initiate any coercive action against the petitioner pursuant to the impugned assessment order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

The State Tax Officer,
(Erstwhile Commercial Tax Officer)
Thiruvannamalai I Assessment Circle,
Thiruvannamalai.

+1cc to Mr.S.Ramanan, Advocate, S.R.No.50163

+1cc to the Spl Government Pleader, S.R.No.50523

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GSP(11/08/2018)