IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.32334 of 2018
and
W.M.P.No.37548 of 2018

M/s.Alagappa Medicals
Rep. by its Proprietor
C.T.Chidambaram
No.200, Nethaji Road,
Manjakuppam, Cuddalore-607 001. ... Petitioner

vs.

1. The Deputy Commercial Tax Officer
O/o. Assistant Commissioner
Cuddalore Town Assessment Circle
Cuddalore -607 001.

2. The Assistant Commissioner (CT) (FAC)
Cuddalore (Town) Assessment Circle,
No.8, Sub Jail Road,
Manjakuppam, Cuddalore - 607 001. ..Respondents

Prayer : Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the proceedings dated 30.12.2016 passed by the first respondent which was received on 07.03.2017 by the petitioner and the consequential order dated 11.05.2018 passed by the second respondent herein and quash the same.

For Petitioner : Mr.J.Rajmohan

For Respondents : Mrs.G.Dhana Madhri
Government Advocate

O R D E R

Mrs.G.Dhana Madhri, learned Government Advocate takes notice for the respondents. By consent of the parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner is aggrieved against the order of assessment dated 30.12.2016 passed in respect of the assessment

year 2014-2015.

3. Heard both sides.

4. It is seen that an order of assessment was already made on 30.10.2015 and the petitioner went on appeal before the First Appellate Authority, who in turn, by his order dated 07.03.2016, remitted the matter back to the Assessing Officer to re-do the assessment afresh, after issuing proper notice to the Assessee, since the grievance of the Assessee before the Appellate Authority was that the Assessing Officer violated the principles of natural justice. Thus, the Assessing Officer, after issuing fresh notice and also after considering the objections raised by the petitioner has chosen to pass the present impugned order on 30.12.2016. It is to be noted that the Assessing Officer has also afforded an opportunity of personal hearing to the petitioner, by issuing a notice dated 02.01.2017 and it is seen that the petitioner has not utilized such opportunity. Therefore, the merits of the assessment made against the petitioner has to be canvassed only before the next fact finding authority viz., the First Appellate Authority, which the petitioner has not done. On the other hand, nearly after two years, the petitioner has filed this writ petition, by challenging the order dated 30.12.2016 said to have been received by the petitioner on 07.03.2017.

5. Therefore, this Court at this stage is not inclined to entertain this writ petition on the sole reason that the same is not maintainable on the ground of delay and latches, apart from the fact that the petitioner is having an alternative remedy of appeal. Accordingly, this writ petition is disposed of, by granting liberty to the petitioner to file an appeal before the First Appellate Authority, within a period of two weeks from the date of receipt of a copy of this order, by complying with the other statutory requirements for filing such appeal. If any such appeal is filed, the Appellate Authority shall consider the same and pass orders on merits and in accordance with law, within a period of six weeks thereafter. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

mk

To

1. The Deputy Commercial Tax Officer
   O/o. Assistant Commissioner
   Cuddalore Town Assessment Circle
   Cuddalore -607 001.

2. The Assistant Commissioner (CT) (FAC)
   Cuddalore (Town) Assessment Circle,
   No.8, Sub Jail Road,
   Manjakuppam, Cuddalore - 607 001.

Copy To

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.J.Rajmohan, Advocate SR.No.84369

+1cc to Special Government Pleader (Taxes) SR.No.84693
High Court, Madras.

WP. No.32334 of 2018

MR(CO)

GMY(27/12/2018)