IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.11.2018

CORAM
THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition Nos.29704 & 29710 of 2018
and
W.M.P.Nos.34665, 34667, 34668 & 34669 of 2018

M/s.Jafarali Stores,
Rep. By its Proprietor – A.Amanullah,
No.25, Balu Udaiyar Street,
Vandavasi,
Tiruvannamalai District. ... Petitioner
(in both Writ Petitions)

vs.

The Commercial Tax Officer,
Vandavasi,
Tiruvannamalai District. ..Respondent
(in both Writ Petitions)

Writ petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records on the file of the Respondent in his impugned proceedings made in TIN No.33664602621/2012-13 and 2013-2014 dated 30.08.2016 quash the same respectively.

For Petitioner : Mr.S.Rajasekar
(in both Writ Petitions)

For Respondent : Mr.V.Haribabu,
Additional Government Pleader
(in both Writ Petitions)

C O M M O N O R D E R

Both these Writ Petitions are filed challenging the orders of assessment dated 30.08.2016 passed in respect of the assessment years 2012-2013 and 2013-2014.

2. Mr.V.Haribabu, learned Additional Government Pleader takes notice for the respondent. By consent of the parties, these writ petitions are taken up for final disposal at the admission stage itself.

3. Heard both sides.

4. The issue involved in both the assessment orders is in respect of ITC on purchases claimed under Section 19(11) of the

Tamil Nadu Value Added Tax Act, 2006. It is admitted by both sides that the said issue is now settled by the decision of the Apex Court in Civil Appeal Nos.10412-10413 of 2018 dated 12.10.2018. It is further stated that the Apex Court while upholding the validity under Section 19(11) of the TNVAT Act, 2006, has also granted liberty to the respective Assessees to file an appeal before the concerned Appellate Authority against the order of assessment. Therefore, the learned counsel seeks such liberty to file an appeal before the Appellate Authority.

5. First of all, these assessment orders were made as early as on 30.08.2016 and the petitioner has approached this Court after a period of two years. Secondly, it is stated that the issue involved in these cases has already been decided by the Apex Court in the above said case, wherein liberty is granted to file appeal. Therefore, it is for the petitioner to work out his remedy only before the next fact finding authority viz., Appellate Authority, by filing a statutory appeal.

6. Accordingly, both these writ petitions are disposed of, only by granting liberty to the petitioner to file such statutory appeal before the Appellate Authority within a period of two weeks from the date of receipt of a copy of this order, however, by complying with other statutory requirements for filing such appeal. If any such appeal is filed within the time stipulated supra, the Appellate Authority shall consider the same and pass orders on its own merits and in accordance with law,without reference to the period of limitation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Vandavasi,
Tiruvannamalai District.

+3cc to Mr.R.Hemalatha, Advocate, S.R.No.77178 and 77179.
+1cc to the Government Pleader, S.R.No.77398

WP. Nos.29704 & 29710 of 2018

rrs 22/11/2018