BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.1317 to 1319 of 2018
and
WMP(MD)Nos.1384 to 1389 of 2018

M/s.R.K.P.TIMBERS & TRADERS,
Represented by its Proprietor
K.Palanikumaran,
19/1A, A.Y.A Nadar Road,
East Gate, Thanjavur - 613 001. ... Petitioner in all writ petitions

Vs.

1.The Appellate Deputy Commissioner, (CT),
Commercial Taxes Buildings,
Thanjavur.

2.The Commercial Tax Officer,
Thanjavur-I Assessment Circle,
Thanjavur-1. ... Respondents in all writ petitions

Common Prayer: These writ petitions are filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in Na.Ka.464/2017/A, Na.Ka.465/2017/A, Na.Ka.466/2017/A dated 05.06.2017 on the file of the first respondent and quash the same as illegal, arbitrary and against law and direct the first respondent herein namely, the Appellate Deputy Commissioner (CT), Thanjavur to entertain the appeal and decide the same on merits.

In all writ petitions :

For petitioner : Mr.S.Karunakar
For Respondents : Mr.M.Jeyakumar, Additional Government Pleader

COMMON ORDER

The petitioner is a assessee with the second respondent. The assessment orders were passed by the second respondent for the assessment years from 2013-14 to 2015-16 on the ground that though the appeals were preferred in time, the pre-deposit of 25% tax had been paid belatedly. The petitioner was communicated with the same. The petitioner has 30 days to file the statutory appeal before the first respondent. The petitioner would have a further period of 30 days but with condone delay petition.

2.In this case, the appeals were filed within the permissible period of day of 30 days. But, then the petitioner failed to remit 25% of the disputed tax. This Court by order dated *09.12.2005 in WP (MD)No.1111 of 2005* directed the appellate authority to entertain the appeal filed by the petitioner and dispose of the same on merits without reference to the delay in making the pre-deposit.

3.This Court is of the view that the petitioner should be given an opportunity to make his contention in the appeal on merits and keep the issue adjudicated. Therefore, the delay in making the pre-deposit stands condoned. The orders impugned in the writ petitions stand quashed. The Appellate Authority is directed to entertain the appeal filed by the petitioner without reference to the delay and dispose of the appeal on merits and in accordance with law.

4.The writ petitions are allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub-Assistant Registrar

To

1.The Appellate Deputy Commissioner, (CT),
Commercial Taxes Buildings,
Thanjavur.

2.The Commercial Tax Officer,
Thanjavur-I Assessment Circle,
Thanjavur-1.

SKM
RL/3C/2P/SKN/RSK/SAR4/27/2/2018

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