BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Dated : 29.11.2018
CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD).No.6113 of 2018
and
W.M.P(MD).No.5957 of 2018

Tvl.KSMC Firm
rep., by its Partner M.Jawahar
No.3, Sarmaji Road,
Kallidaikurichi,
Tirunelveli District. ... Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT),
Tirunelveli.

2.The Commercial Tax Officer,
Ambasamudram, Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the first respondent passed in Appeal No. & Year: TNVAT A.P.No.9 of 2013 dated 21.11.2017 dismissing the petitioner's appeal filed for the assessment year 2007-08 as illegal, invalid and against the principles of Natural Justice and further direct him to dispose of the appeal on merits in accordance with law.

For Petitioner : Mr.A.Chandrasekaran
For Respondents : Mr.K.Mu.Muthu
Additional Government Pleader

ORDER

The petitioner is an assessee registered with the second respondent. The issue relates to the stocks held by the petitioner as on 31.12.2006. The case actually arose under TNGST Regime. Therefore, when the petitioner suffered an adverse order, he ought to have filed a revision petition before the Joint Commissioner (CT), Tirunelveli. The petitioner erroneously filed an appeal before the first respondent herein. The first respondent herein rightly held that the appeal filed by the petitioner was not maintainable. The said order does not warrant any interference.

2. However, I am of the view that if an appeal, that is not maintainable, was filed before the Appellate Authority, the Appellate Authority ought to have returned the appeal and relegate the petitioner to move the Revisional Authority. Since the said

approach was not adopted in this case, I am of the view even while sustaining the order impugned in this writ petition, liberty has to be given to the petitioner to file a revision before the Joint Commissioner (CT), Tirunelveli. If such a revision petition is filed within a period of three weeks from the date of receipt of a copy of this order, the Revisional Authority shall entertain the same, without reference to any limitation and the revision petition shall be disposed of on merits and in accordance with law.

3. With this directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar(CS-III)

To

1.The Appellate Deputy Commissioner (CT),
Tirunelveli.

2.The Commercial Tax Officer,
Ambasamudram, Tirunelveli District.

+1CC to Mr.A.Chandrasekaran, Advocate, SR.No.97807
+1CC to the Special Government Pleader SR.No. 98085

W.P(MD).No.6113 of 2018
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RMK
ES/SKN/RSK/SAR 3/05.12.2018/2P/5C