BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 29.08.2018
CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU
W.P(MD).Nos.18120 and 18121 of 2018
and
W.M.P.(MD).Nos.16020 and 16021 of 2018

Tvl.Sri Sathaiya Agencies,
rep. by its Proprietor,
V.A.Sathappan, aged about 72 years,
No.14-5-25B, Karaikudi Main Road,
Puduvayal,
Sivagangai District - 630 108. ... Petitioner in both the petitions

Vs.

1. The Commissioner of Commercial Taxes,
   O/o. The Principal and Special Commissioner
   of commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

2. The State Tax Officer,
   Thiruppathur Assessment Circle,
   Commercial Taxes Office,
   5/4, 56, Chinna Thoppu Street,
   Thiruppathur,
   Sivagangai District - 630 211. ... Respondents in both the petitions

COMMON PRAYER:- Writ Petitions have been filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the 2nd respondent in TIN/33235500641/2007-08 and TIN/33235500641/2008-09 respectively, dated 18.06.2018 and quash the same and consequently direct the 2nd respondent to rectify the error in his order in TIN/33235500641/2007-08 and TIN/33235500641/ 2008-09, dated 26.12.2012, by considering the petitions dated 31.12.2012 and 05.06.2018 filed by the petitioner under Section 84 of the TNVAT Act.

For petitioner in both the petitions	:	Mr.B.Rooban
For respondents in both the petitions	:	Mr.D.Muruganandham, Additional Government Pleader

COMMON ORDER

When both the Writ Petitions came up for hearing today, the learned counsel appearing for the petitioner would submit that the petitioner has not filed appeals against the assessment orders under the *bona fide* impression that the petitions, dated 31.12.2012, filed by the petitioner under Section 84 of the TNVAT Act seeking to rectify the error apparent on the face of the record would be considered by the respondents and when the remainders were sent on 05.06.2018, it was rejected by the respondents, vide impugned order dated 18.06.2018, stating that no appeal has been filed by the petitioner, without providing any opportunity to the petitioner. He would further submit that even now he is ready to file appeals against the assessment orders of the year 2007-08 and 2008-09 passed by the 2nd respondent, dated 26.12.2012 and prayed for a direction to the respondents to entertain the appeals to be filed by the petitioner, without objecting the same on the ground of the limitation.

2. The learned Additional Government Pleader appearing for respondents objected to the above said submissions.

3. Perusal of the record shows that the petitioner, after receiving the assessment orders, had filed petitions under Section 84 of the TNVAT Act before the 2nd respondent. The petitioner was under the *bona fide* impression that the petitions were being considered, but the 2nd respondent, after a period of four years, has issued the demand notice dated 22.12.2016 for the assessment years 2007-08 and 2008-09. The petitioner would contend that he was not able to file appeals, as there was no order passed on the petitions filed under Section 84 of the TNVAT Act. Therefore, in my considered opinion, ends of justice would be met, if a direction is given to the petitioner to file appeals against the assessment orders, dated 26.12.2012. Accordingly, the petitioner is directed to file such appeals within a period of two weeks from the date of receipt of a copy of this order. If the petitioner files appeals within the above stipulated period, the appellate authority shall entertain the same without questioning the limitation point and after giving sufficient opportunity to the petitioner, dispose of the same on merits and in accordance with law, within a period of eight weeks thereafter.

4. Both the writ petitions stand disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

1. The Commissioner of Commercial Taxes,
   O/o. The Principal and Special Commissioner
   of commercial Taxes,
   Ezhilagam, Chepauk,
   Chennai - 600 005.

2. The State Tax Officer,
   Thiruppathur Assessment Circle,
   Commercial Taxes Office,
   5/4, 56, Chinna Thoppu Street,
   Thiruppathur,
   Sivagangai District - 630 211.

+1cc to Mr.B.Rooban , Advocate Sr.No.80990
+1cc to Spl.Government Pleader Sr.No.81303

GCG

VB/RSK/SAR4/08.10.2018/3P/5C

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