HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition Nos.11871 and 11873 of 2018

Common Order: (per V.Ramasubramanian, J.)

Both these writ petitions arise out of the orders passed by the Appellate Deputy Commissioner, on two independent appeals filed by the dealer as against orders of assessment relating to the period (i) from December, 2011 to November, 2015 and (ii) from April, 2013 to October, 2015.

2. Heard Mr. P.Narasimha Rao, learned counsel for the petitioner. Mr. S.Suri Babu, learned Standing Counsel, takes notice for the respondents.

3. As against the impugned orders of the Appellate Deputy Commissioner, the petitioners have effective alternative remedies of appeal to the VAT Tribunal, Visakhapatnam. The impugned orders are dated 27-12-2017. According to the petitioners, the impugned orders were received only in January, 2018. The Tribunal has power to condone the delay up to 60 days.

4. There is no valid reason for the petitioners to bypass the said remedy. According to the petitioners, damaged broken rice can be used only as poultry feed which will fall under Entry No.3 of Schedule-I of the Act, but the authorities have considered the same as not being eligible for exemption.

5. But the above question is a question that can as well be dealt with by the Tribunal.

6. As a matter of fact, the petitioners filed statutory appeals as against the orders of assessment passed respectively on 30-3-2016 and 24-02-2016. The Appellate Deputy Commissioner dismissed the appeals on 27-12-2017. Thereafter, orders of penalty were passed on 29-01-2018 in both these cases. As against the orders of penalty, the petitioners can file separate appeals to the Appellate Deputy Commissioner.

7. In other words, the petitioners ought to have field appeals before the VAT Tribunal as against the orders of the Appellate Deputy Commissioner and the petitioners should have filed separate appeals before the Appellate Deputy Commissioner as against the orders of penalty.

8. Instead, the petitioners have chosen to challenge the orders of the Appellate Deputy Commissioner arising out of orders of assessment and also the orders of the Assessing Officer imposing penalty in a single writ petition.

9. Therefore, the writ petitions are dismissed, leaving it open to the petitioners to avail the alternative remedies of appeal to the respective authorities.

10. Registry is directed to return the original impugned orders to enable the petitioners to file the appeals. If the petitioners file the appeals within the condonable period, the Appellate Authority/Tribunal may deal with the applications for condonation of delay leniently.

11. The applications, if any, pending in these writ petitions shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

J.UMA DEVI, J.

10th April, 2018.
Ak

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE Ms. JUSTICE J.UMA DEVI

Writ Petition Nos.11871 and 11873 of 2018
(per VRS, J.)

10th April, 2018.
(Ak)