IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2020

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition No.41159 of 2006
& M.P.Nos.1 and 2 of 2006

Tvl. Raju Enterprises,
Represented by its Proprietor, Mithalal C.Lukad,
6 Ayyasamy Road, Shevapet, Salem - 2 ... Petitioner

..vs..

1. The Commercial Tax Officer (FAC),
   Leigh Bazaar Circle, Salem
2. The Inspector of Police,
   Vigilance & Anti-Corruption, Dharmapuri ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent in CST No.403233/2003-2004, dated 20.09.2006, quash the same and direct the 1st respondent to issue summon to the 2nd respondent under Section 54 and got information in accordance with Section 54-A of the Tamil Nadu General Sales Tax Act 1959 and thereafter proceed further for assessment and levy in accordance with law.

For Petitioner : Mr. R.Senniappan
For Respondents : Mr. Hariharan, AGP (Taxes)

O R D E R

It is the case of the petitioner that the first respondent / assessing authority had issued pre-assessment notice for the assessment year 2003-04 under the CST Act, 1956 proposing to assess the entire inter-state sales turnover at the rate of 10%, instead of grant of exemption on the ground that the petitioner had not produced the Original C Form declarations in support of their claim. The petitioner has submitted their objections. Without considering the same and without giving an opportunity of personal hearing, the order dated 20.09.2006 was passed by the first respondent, which is impugned in this writ petition.

2. Heard both sides and perused the materials available on record.

3. Admittedly, as against the order passed by the first respondent, an appeal remedy lies before the Appellate Assistant Commissioner of Commercial Taxes, Salem, within 30 days of receipt of the order. Without exhausting such remedy, the petitioner has approached this Court.

4. In view of the above, the petitioner is hereby directed to file an appeal before the appellate authority (as against the order passed by the first respondent) within a period of two weeks from the date of receipt of a copy of this order and if such appeal is filed, the appellate authority is directed to entertain the same, without reference to the period of limitation, consider and pass appropriate orders, on merits and in accordance with law, without being influenced by any of the observations made by the assessing authority, within a period of four weeks from the date of receipt of the Appeal to be filed by the petitioner.

5. Accordingly, this writ petition is disposed of. No costs. Consequently the connected MPs are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Commercial Tax Officer (FAC),
   Leigh Bazaar Circle, Salem
2. The Inspector of Police,
   Vigilance & Anti-Corruption, Dharmapuri.

+1 cc to Mr.R.Senniappan,advocate,sr.24370

+1 cc to Spl Govt.Pleader,sr.24028

ev(co)
krd 25/6

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