IN HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.01.2020
CORAM
THE HONOURABLE MR.JUSTICE C.SARAVANAN
W.P.No.2125 of 2011
and
M.P.No.1 of 2011

Tvl.Namakkal District Chamber Bricks
Manufacturers Association,
rep. by its President S.Subramaniam,
No.182-A, Thuraiyur Road,
Namakkal - 637 001. ...Petitioner

Vs.

The Commercial Tax Officer,
Namakkal City Assessment Circle,
Namakkal, Namakkal District. ...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the assessment order dated 05.07.2010 passed by respondent in TIN.No.33093122472/2007-2008 and to direct the respondent to consider the monthly returns already submitted by the petitioner and to pass fresh assessment order after issuing pre-assessment notice to the petitioner and after getting the reply of the petitioner.

For Petitioner : Mr.J.Winny for
Mr.A.Immanuel

For Respondent : Mr.A.N.R.Jayaprathap
Government Advocate.

O R D E R

In the writ petition, the petitioner has challenged the impugned assessment order dated 05.07.2010, passed by the respondent in TIN.No.33093122472/2007-2008 for the Assessment Year 2007-08 .

2.By the impugned order, the respondent has determined the taxable turnover for the Assessment Year 2007-08 as Rs.52,47,375/- and accordingly, the respondent has demanded tax at 4% which has been determined as Rs.2,09,895/- along with penalty due of Rs.3,14,843/-.

3.The petitioner has also filed similar writ petitions for the Assessment Years 2008-09 and 2009-10. Those writ petitions were dismissed by a common order dated 29.03.2011 of this Court with the following observations:-

> "3. The main contention raised on behalf of the petitioner is that eventhough returns had been filed by the petitioner for the respective assessment years, the respondent had wrongly arrived at the conclusion that no returns had been filed by the petitioner, in time. However, the petitioner has not shown sufficient cause or reason for this Court to accept such a contention, at this stage. Hence, the writ petitions stand dismissed. However, it is made clear that it would be open to the petitioner to raise all the available objections against the impugned orders, by availing the appeal remedy, before the appropriate authority, as per Section 51 of the Tamil Nadu Value Added Tax Act, 2006, including the claim that the petitioner had filed the returns for the respective assessment years, in time. The petitioner is permitted to file the appeals, within a period of 15 days from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed"

4.Since the petitioner was directed to approach the appropriate Appellate Authority in the above writ petitions, the present writ petition deserves to be dismissed with the above observations. Therefore, the petitioner is directed to file appeal before the concerned Appellate Authority within a period of 30 days from the date of receipt of a copy of this order. If such appeal is filed, the concerned appellate Authority shall dispose the appeal within 30 days thereafter.

5.Accordingly, the present Writ Petition is dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Namakkal City Assessment Circle,
Namakkal, Namakkal District.

+1cc to Mr.A.Immanuel, Advocate, SR.No.6414.
+1cc to Government Pleader(Taxes), SR.No.6832.

W.P.No.2125 of 2011
and
M.P.No.1 of 2011

PVS(CO)
CSR: 04.03.2020