IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.A.No.1135 of 2020
and
C.M.P.No.13840 of 2020

M/s.Pandian Agencies,
rep. by its Proprietor,
No.45, Second Street,
NSK Road,
Chennai 600 106. ...Appellant

Versus

The Assistant Commissioner (CT),
Vadapalani I Assessment Circle,
Greams Road,
Chennai 600 006. ...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 24.9.2019 in W.P.No.23 of 2014.

Prayer in W.P.No.23 of 2014: Writ of Certiorari calling for the Impugned proceedings of the respondent in TIN:33281461582/2011-12 and quash the order dated 27/11/2013 passed by this court.

For Appellant : Mr.Adithya Reddy

For Respondent : Mr.Mohammed Shaffiq,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

This Writ Appeal has been filed against the order of the learned Single Judge dated 24.9.2019 by which the learned Single Judge dismissed the Writ Petition filed by the Petitioner which was directed against the Assessment Order dated 27.11.2013 for the Assessment Year 2011-2012 under the provisions of TNVAT Act.

2. The learned Single Judge observed that there was no co-operation on the part of the Assssee before the Assessing Authority and therefore, no indulgence could be granted under the Writ Jurisdiction under Article 226 of the Constitution of India.

3. The learned counsel for the Appellant Mr.Adithya Reddy submitted that the Assessee may be given a right to file his Appeal as the demand in question was illegally raised against the Assessee by the Assessment Order placed on record dated 27.11.2013 for a sum of of Rs.9,88,717/- alongwith a penalty at the rate of 50% to the tune of Rs.66,910/-.

4. Having heard the learned counsel for the Appellant and having perused the order of the learned Single Judge, we grant a small indulgence to the Writ Appellant though the Assessee is not entitled as a matter of right that if the regular first Appeal is filed against the said Assessment Order dated 27.11.2013 within a period of 4 weeks from today and the Assessee further deposits 35% of the disputed demand of Rs.9,88,717/- which comes to Rs.3,46,000 (Rounded off to the nearest amount) within a period of 4 weeks from today, then the objection for delay in filing the regular Appeal may not be raised by the Appellate Authority and the Appeal may be considered on merits in accordance with law.

5. For the Stay against the recovery of balance amount viz., 65% of the disputed demand under the Assessment Order and Penalty, the Assessee will be at liberty to file appropriate Stay Application before the first Appellate Authority which may be decided in accordance with law after giving opportunity of hearing to the Assessee.

With this observation, the Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Assistant Commissioner (CT),
   Vadapalani I Assessment Circle,
   Greams Road,
   Chennai 600 006.

+1 cc to M/s.Adithya Reddy, Advocate Sr.No.41485

+1 cc to the Special Government Pleader, Advocate Sr.No.41343

W.A.No.1135 of 2020

AJS(CO)
RN(22/12/2020)