IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2020

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. Nos.27992, 28010, 28017, 28026, 28032 and 28051 of 2018
and
WMP. Nos.32571, 32576, 32584, 32588, 32594, 32599, 32613, 32615, 32655, 32660,32663 and 32665 of 2018

W.P. No.27992 of 2018

M/s.Sri Muruga Hardware & Plywoods,
Rep. by its Proprietor,
K.Murugan. ...Petitioner in all WPs

Vs

1.The Appellate Deputy Commissioner (CT),
Vellore, Vellore District.

2.The Commercial Tax Officer,
Tiruvannamalai -I Circle,
Tiruvannamalai,
Tiruvannamalai District. ... Respondents in all WPs

Prayer: PETITION filed under Article 226 of The Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in his impugned proceedings made in L.Dis 1074/18, 1075/18, 1076/208, 1077/18, 1078/2018 & 1079/2018 respectively dated 26.09.2018 and to quash the same as illegal and contrary to the scheme of the Act and further direct the 1st respondent to entertain the appeal relating to the assessment year 2011-12, 2012-13, 2013-14, 2014-15, 2015-16 & 2016-2017 under TNVAT Act, 2006 filed by the petitioner.

For Petitioner : Mr.S.Rajasekar in all WPs.

For Respondent : Mr.R.Swarnavel
Government Advocate in all WPs.

COMMON ORDER

The petitioner challenges the proceedings of the first respondent dated 26.09.2018 returning the appeal petitions filed by the petitioner as not entertainable in view of the delay in re-presentation of the same beyond a period of 10 days.

2. The petitioner had suffered orders of assessment dated 27.10.2017 for the periods 2011-12 to 2016-17 passed in terms of the provisions of the Tamil Nadu Value Added Tax Act, 2006 (in short 'Act'), as against which, it approached this Court by way of Writ Petitions in W.P. Nos. 33628 to 33633 of 2017. By order dated 22.12.2017, the Writ Petitions were disposed granting liberty to the petitioner to file Appeals before the Appellate Authority. A period of 30 days from date of receipt of copy of the order was granted for filing of appeals and the Appellate authority was directed to entertain the appeal without reference to limitation. The appeals have been filed within the period as aforesaid.

3. The appeals were however returned for rectification of certain defects. Rule 14 (3) of Tamil Nadu Value Added Tax Rules, 2007 (in short 'Rules') provide for re-presentation of appeals/petitions within ten days from date of receipt of the same and the proviso thereto permits condonation of a further period of 10 days, if the Appellate Authority were statisfied with the reasons for the delay.

4. Admittedly, in this case, the re-presentation is beyond the period as set out under the Rules and Proviso thereto. However, the petitioner argues that the Rule is not mandatory insofar as it is not supported by such a stipulated under the substantive statutory provisions relating to appeals. The Rules sets out a matter of procedure only and thus should be construed liberally.

5. The petitioner has sought condonation of delay before the Appellate Commissioner on the ground that there were difficulties in communication between the Counsel and the petitioner who were situated in different places. Moreover, the assessee/petitioner appears to have been on a pilgrimage for a substantial period when, learned counsel states, he was unable to contact him.

6. In the light of the discussion aforesaid, I am of the view that the dealy may be condoned, and the appeallate authority is directed to hear the appeals on merits, however putting the petitioner to terms.

7. The petitioner shall pay a sum of Rs.2,000/- (Rupees Two Thousand only) per appeal to the Blue Cross of India, 1 Eldams Road, Chennai 600018 within a period of two (2) weeks from today. Upon production of proof of compliance before the Appellate Authority, the appeals be listed for hearing and heard on merits and disposed within a period of six (6) weeks thereafter.

8. The Writ Petitions are disposed in the above terms. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

Rkp

To

1.The Appellate Deputy Commissioner (CT),
Vellore, Vellore District.

2.The Commercial Tax Officer,
Tiruvannamalai -I Circle,
Tiruvannamalai,
Tiruvannamalai District.

+2cc to Mr.R.Hemalatha, Advocate, S.R.No. 7047
+1cc to the Special Government Pleader, S.R.No. 7746

+4cc to Mr.R.Hemalatha, Advocate, S.R.No. 7047 (04/02/2020)

W.P. Nos.27992, 28010, 28017, 28026, 28032 and 28051 of 2018
and
WMP. Nos.32571, 32576, 32584, 32588, 32594, 32599, 32613, 32615, 32655, 32660,32663 and 32665 of 2018

NM(CO)

GN(03/02/2020)