BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.10.2020
CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
W.P(MD).No.19146 of 2014

M/s.Soft Options,
represented by its
Authorised Signatory Mr.Tapan Kanti Das,
No.37, Ramanujam Nagar,
Karur. .. Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT) (FAC),
Commercial Taxes Buildings, Trichy.

2.The Assistant Commissioner (CT),
Karur (West) Assessment Circle,
Karur. .. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records in ROC.No.1194/2014/A dated 04.09.2014 on the file of the 1st respondent and quash the same as illegal, arbitrary and against law, and direct the 1st respondent herein namely, the Appellate Deputy Commissioner (CT) (FAC), Trichy to entertain the appeal and decide the same on merits.

For Petitioner : Mr.Sudalai Muthu for Mr.S.Karunakar
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

ORDER

This writ petition has been filed challenging the order dated 04.09.2014, passed by the first respondent, rejecting the appeal, filed by the petitioner under Section 51 of the TNVAT Act.

2.Heard Mr.Sudalai Muthu for Mr.S.Karunakar, learned counsel for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader for the respondents.

3.The petitioner has suffered an assessment order, passed by the second respondent on 06.05.2014. Aggrieved by the same, the petitioner preferred an appeal before the first respondent under Section 5 of the TNVAT Act. Under the impugned order, the first respondent rejected the appeal, on the ground that the appeal has not been preferred within the time as prescribed under Section 5 of the TNVAT Act.

4.As seen from the records, the appeal has been filed by the petitioner after 75 days from the date of the receipt of the copy of the order dated 06.05.2014. It is the contention of the petitioner that the pre-deposit amount was paid by them on 11.08.2014 within the prescribed time limit for filing the appeal. It is also contended by the petitioner that the appeal could not be filed within the prescribed time, since the petitioner was having some medical problems during that period. In such circumstances, this writ petition has been filed, challenging the impugned order of the first respondent rejecting the appeal filed by the petitioner.

5.The learned counsel for the petitioner drew the attention of this Court to the orders passed by this Court in various other writ petitions involving the similar issue. One such batch of writ petition is W.P.(MD).Nos.10360 and 10361 of 2009, which was disposed by the learned single Judge of this Court on 15.10.2009, in the case of *Tvl.Radha Textiles (P) Ltd., Vs. The Commercial Tax Officer, Trichy and others*, wherein the petitioner therein was permitted to file an appeal, even though there was a delay. But in that case, the petitioner had paid the entire tax amount as assessed by the Assessing Officer. In the case on hand, the petitioner has not paid the tax amount as assessed by the second respondent on 06.05.2014. Unless and until the petitioner pays the tax amount, indulgence cannot be shown by this Court. As a condition precedent, the petitioner will have to necessarily pay the tax amount as assessed by the second respondent.

6.Accordingly, this Court directs the first respondent to entertain the appeal filed by the petitioner as against the order dated 06.05.2014, passed by the second respondent in TIN No.33323784904/2011-12, on condition that the petitioner deposits the entire tax as assessed by the second respondent in the order dated 06.05.2014, within a period of fifteen days from the date of receipt of a copy of this order. Only on such deposit, the first respondent shall entertain the appeal and pass final orders on merits and in accordance with law, within a period of six months thereafter.

7.With the aforesaid directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Appellate Deputy Commissioner (CT) (FAC),
Commercial Taxes Buildings, Trichy.

2.The Assistant Commissioner (CT),
Karur (West) Assessment Circle,
Karur.

+1 CC to M/s.S. KARUNAKAR, Advocate (SR-19383[F] dated 08/10/2020)

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07.10.2020

SSS(CO)
KB(16.10.2020) 3P 4C