

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2021

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH
W.P. No.19739 of 2020

and

WMP. Nos.24382 & 24383 of 2020

and

WMP. Nos.4225, 4228, 4229 & 4230 of 2020
in WP. Nos.3773, 3777, 3779 & 3783 of 2019

Sri Pannajee Impex
Rep. by its Proprietrix
Mrs.Prem Devi Ghosal,
No.88/2, Subramanian Nagar,
2nd Street, K.N.P. Colony,
Tiruppur.

...Petitioner

Vs.

1.The Assistant Commissioner (ST),
Tiruppur Assessment Circle,
Tiruppur.

2.The Appellate Deputy Commissioner (ST),
Pollachi.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorarified Mandamus to call for the records of the 1st respondent in TIN 33512424035/2013-14, 2014-15, 2015-16, 2016-17 and quash the impugned proceedings dated 03.02.2020 passed therein and further direct the 2nd respondent to take the appeal on file and dipsose the same on merit at an early date.

For Petitioner : Mr.B.Raveendran
For Respondents : Mr.ANR Jayaprathap
Government Advocate

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O R D E R

The petitioner challenges orders of assessment for four years i.e. A.Y 2013-14, 2014-15, 2015-16 and 2016-17 and seeks a direction to 2nd respondent/Appellate Deputy Commissioner to take the appeals on file and dispose the same on merits.

2. The petitioner had earlier approached this Court in W.P. No.3773 and batch of 2019, challenging orders of assessment dated 30.10.2018, when the following order was passed on 11.02.2019 reading as follows:

'Mr.Raveendran, learned counsel appearing on behalf of the petitioner fairly admits that though notices for assessment were issued to the dealers as early as on 28.09.2018 inviting their objection to the proposals contained therein as well as fixing a date for personal hearing, there was default on the part of the writ petitioners in both filing the objections as well as appearing before the authority.

2. Mr.M.Hariharan, AGP takes notice on behalf of the respondents and supports the assessment order pointing out that there was no cooperation extended by the assessee in completion of assessment proceedings.

3. In the aforesaid circumstances, I see no reason to interfere with the impugned orders of assessment for the periods 2013-14 to 2016-17. The writ petitioner is at liberty to challenge the same by way of a statutory appeal before the Appellate Assistant Commissioner.

4. Accordingly, the writ petitions stand dismissed. Consequently, connected miscellaneous petitions are also closed. However, there shall be no order as to costs.'

3. As against the impugned orders, appeals were filed after making statutory pre-deposit, on 20.02.2019. However since the delay in filing of appeals was not expressively condoned by this Court, the appeals were returned by the First Appellate Authority on 11.04.2019.

4. The petitioner has immediately filed Miscellaneous Petitions bearing Nos.4225, 4228, 4229 & 4230 of 2020 in W.P. Nos.3773, 3777, 3779 & 3783 of 2019 seeking modification of order dated 11.02.2019 and seeking condonation of delay of 51 days in filing of appeals. A direction to the first appellate authority was sought, that he hear the appeals on merits. The MPs have not been listed till my direction to do so on 27.01.2021. In the meanwhile, recovery notice was issued on 31.12.2020 and hence, the present writ petition has come to be filed challenging the same.

5. To the direction given, the concerned officer has put up a report to the effect that the connected writ petitions in WP. Nos.3773, 3777, 3779, 3600 & 3783 of 2019 were disposed. The WMPs have thus been directed to be listed by way of a special list and heard along with the present writ petition.

6. In the circumstances as above, particularly seeing as the petitioner has complied with the direction to file appeals, remitted pre-deposit and approached this Court promptly seeking a clarification in regard to order dated 11.02.2019, I am inclined to accept the prayer of the writ petitioner, however, on terms. Upon remittance of Rs.1,00,000/- (Rupees One Lakh only) within a period of four (4) weeks from today, the delay in filing of appeal is condoned and the petitioner permitted to represent the appeals. The 2nd respondent, on receipt of the same, will take the appeals up without reference to limitation, hear the petitioner and dispose the same in accordance with law.

7. This writ petition is disposed as above. Connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

rkp

To

1.The Assistant Commissioner (ST),
Tiruppur Assessment Circle,
Tiruppur.

2.The Appellate Deputy Commissioner (ST),
Pollachi.

+lcc to Mr.B.Raveendran, Advocate, SR.No.13588

+lcc to Special Government Pleader(Taxes), Sr.No.14005

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PMK(CO)
KKV/19/03/2021