IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.NOS.27662 & 27665 OF 2021
AND
W.M.P.NOS.29216 & 29218 OF 2021

(Through Video Conferencing)

Burnt Umber Fashion Private Limited,
Represented by its Director,
Bharti Bhatia,
No.R-39, TTC Industrial Area,
MIDC, Rable,
Maharashtra - 400 701. ... Petitioner in both W.P's

.Vs.

The Assistant Commissioner (ST),
Vanagaram Assessment Circle,
No.4/109, Bangalore NH Road,
Chennai - 600 123. ... Respondent in both W.Ps

PRAYER IN W.P.NO.27662 OF 2021:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in TIN 33221351423/2014-2015 dated 30.10.2019 and quash the same and further direct the respondent to re-do the assessment in accordance with law after providing personal hearing to the petitioner.

PRAYER IN W.P.NO.27665 OF 2021:-

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the respondent passed in TIN 33221351423/2015-2016 dated 30.10.2019 and quash the same and further direct the respondent to re-do the assessment in accordance with law after providing personal hearing to the petitioner.

For Petitioner (In both W.Ps)	:	Mr.N.Murali
For Respondent (In both W.Ps)	:	Mr.Richardson Wilson Additional Government Pleader

COMMON ORDER

Mr.Richardson Wilson, learned Additional Government Pleader takes notice on behalf of the respondent.

2. The petitioner has approached this Court against the impugned orders dated 30.10.2019 for the Assessment Years 2014-2015 and 2015-2016 after a lapse of two years when the impugned orders were passed by the respondent.

3. These writ petitions have been filed belatedly long after the statutory period of limitation for filing an appeal had expired under the provisions of the Tamil Nadu Value Added Tax Act, 2006.

4. The learned counsel for the petitioner submits that the petitioner has a very good case on merits as the demand on which Value Added Tax had been confirmed under the provisions of the Finance Act, 1994. However, the petitioner could not participate in the proceedings as the person responsible for the affairs of the company was busy and tending to the needs of his mother who was ailing and suffering from cancer. The learned counsel further submits that the petitioner has filed two documents to substantiate the same.

5. Opposing the prayer, the learned Additional Government Pleader for the respondent submits that the petitioner had been negligent and recalcitrant in not filing reply to the various notices issued right from 07.09.2016, 15.12.2017, 25.01.2018 and 28.06.2019. He submits that these writ petitions are liable to be dismissed on account of latches.

6. By way of rejoinder, the learned counsel for the petitioner submits that the petitioner may be allowed to participate in a fresh round of proceedings on terms.

7. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

8. One option available is to ask the petitioner to workout the remedy before the Appellate Authority and by asking the Appellate Authority to dispose the appeal on merits or in the alternative relegate the petitioner to give a proper reply before the respondent on terms.

9. Considering the fact that the amount involved may or may not be liable to tax under the provisions of the Tamil Nadu Value Added Tax Act, 2006, as the amount which has been received by the petitioner was reportedly liable to tax under the provisions of the Finance Act, 1994, I am inclined to set aside the impugned orders and remit the cases back to the respondent to pass a fresh order on merits, subject to the petitioner depositing 30% of the disputed tax for each of the Assessment Year, within a period of thirty days from the date of receipt of a copy of this order.

10. Subject to such payment, the respondent may take up the cases afresh and pass appropriate orders on merits within the aforesaid period. Needless to state, the amount directed to be deposited shall be subject to final appropriation in terms of the order to be passed by the respondent.

11. Liberty is given to the petitioner to file a reply/ written submission within a period of fifteen days from the date of receipt of a copy of this order.

12. These Writ Petitions stand disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Vanagaram Assessment Circle,
No.4/109, Bangalore NH Road,
Chennai - 600 123.

+2ccs to Mr.N.Murali, Advocate, S.R.No.69718
+1cc to the Special Government Pleader (Taxes), S.R.No.69885

W.P.NOS.27662 & 27665 OF 2021 AND
W.M.P.NOS.29216 & 29218 OF 2021

CP(CO)
PBS/12/01/2022