IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

CORAM :

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P.No.3504 of 2022

Tvl.Paras Granites,
Plot No.19-A, Phase-1,
SIPCOT Industrial Complex, Hosur
Krishnagiri – 635 126
Represented by its Partner, Mr.Parasmal ..Petitioner

Vs.

The Assistant Commissioner (CT)
Hosur North
Hosur – 635 109. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent herein to consider the revised returns filed on 18.02.2014 and pass a revised assessment order in accordance with the provisions of law.

For Petitioner : Mr.Adithya Reddy

For Respondent : Mr.V.Prasanth Kiran
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Mandamus, directing the respondent herein to consider the revised returns filed on 18.02.2014 and pass a revised assessment order in accordance with the provisions of law.

2. Insofar as the month of November 2013 and December 2013, the petitioner filed a return, based on which, an assessment order has been passed on 30.09.2014. However, it is a case of the petitioner that, before passing the assessment order, the petitioner already filed revised return on 18.02.2014, which was received and acknowledged by the respondent. Despite the

same, without considering the revised return, they proceeded with the original return filed by the petitioner and accordingly, the order dated 30.09.2014 was passed.

3. Though such an order was passed on 30.09.2014, the petitioner now has filed the present writ petition, seeking for Mandamus to issue a direction to the respondent to consider his revised return dated 18.02.2014. Reiterating the afore-stated, learned counsel appearing for the petitioner would submit that since it is an error apparently on the face of the record, where the 18.02.2014 revised return though had been filed by the petitioner, and which was received and acknowledged by the respondent/Revenue, they ought not to have passed the assessment order dated 30.09.2014. Therefore, without challenging the 30.09.2014 order, he may ask for a direction by way of mandamus from this Court to consider his revised return dated 18.02.2014. Hence, the learned counsel seeks indulgence of this Court to issue a direction.

4. Heard Mr.V.Prasanth Kiran, learned Government Advocate appearing for the respondent, who would submit that, first of all, the writ petition is not maintainable due to laches. As a mandamus, the petitioner cannot seek for a revised return said to have been filed in the year 2014. Moreover, he would submit that on 30.09.2014, an assessment order has been passed, that is still intact as petitioner has not chosen to challenge the same by filing an appeal. Therefore, the said order is staring on the petitioner. Under these circumstances, he cannot seek for any mandamus to consider the revised return dated 18.02.2014. Therefore, for all these reasons, this writ petition can be rejected.

5. I have considered the rival submissions made by the learned counsel appearing for both parties and have perused the materials placed before this Court.

6. As has been rightly pointed out by the learned Government Advocate appearing for the respondent, the petitioner already suffered with an assessment order dated 30.09.2014 and the same has not so far assailed by filing any appeal before the Appellate Authority. So long as the said order dated 30.09.2014 is available and the effect is still there, the petitioner cannot seek for a parallel proceedings by way of a direction to the respondent to consider his revised return dated 18.02.2014.

7. If at all the petitioner has got any grievance that, without considering his revised return since the order dated

30.09.2014 was passed by the respondent, that can be stated as one of the reason for assailing the said order dated 30.09.2014, for which, the petitioner ought to have approached the Appellate Authority. However, belatedly the petitioner has now approached this Court by filing the present writ petition, seeking Mandamus, which as per the afore-stated reasons, cannot be granted at this juncture.

8. Hence, this writ petition is liable to be rejected, accordingly, it is rejected. However, it is open to the petitioner to workout his remedy against the assessment order dated 30.09.2014 before any alternative Forum and in that circumstances, if the petitioner is facing the limitation issue, that can also be agitated on merits and if any such issue is raised, the same shall be considered and decided objectively by the alternative Forum / Appellate Authority in the light of the afore-stated peculiar facts and circumstances, where the revised return submitted by the petitioner dated 18.02.2014 has not been taken into account by the Assessing Authority before passing the assessment order dated 30.09.2014.

9. With these observations, this writ petition is rejected and accordingly stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

kak/mp

To

The Assistant Commissioner (CT)
Hosur North
Hosur - 635 109.

+1cc to Mr.Adithya Reddy, Advocate SR.No.12161
+1cc to Special Government Pleader(Taxes), SR.No.12486

W.P.No.3504 of 2022

VBM(CO)
CB(21/03/2022)