IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.4206 of 2022
and
W.M.P.Nos.4358 & 4359 of 2022

A.Sakthivel ...Petitioner

Vs.

1. The State of Tamil Nadu,
   Rep. By its Secretary,
   Commercial Taxes Department,
   Fort St. George, Chennai – 600 009.

2. Deputy Commissioner/Appellate Authority
   Commercial Taxes, Salem.

3. The State Tax Officer,
   Harur Circle, Harur,
   Dharmapuri District. ...Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records in Va.Vi.No.33743342547/2013-14 on the file of the 3rd respondent dated 24.09.2018 and quash the same and consequently direct 3rd respondent to pass assessment order afresh after affording an opportunity of hearing to the petitioner.

For Petitioner : Mr.J.Bharathiraja

For Respondents : Mr.V.Prasanth Kiran
Government Advocate

O R D E R

The prayer sought for herein is for a writ of certiorarified mandamus calling for the records in Va.Vi.No.33743342547/2013-14 on the file of the 3rd respondent dated 24.09.2018 and quash the same and consequently direct the 3rd respondent to pass assessment order afresh after affording an opportunity of hearing to the petitioner.

2. Against the petitioner who is a dealer registered under the respondents as per the erstwhile Tamil Nadu Value Added Tax Act, 2006, there has been an assessment proceedings issued on 24.09.2018 under Section 27 of the Act. As against which, the present writ petition has been filed.

3. When a question was posed by this Court as to why appeal has not been filed and on what basis, the petitioner has approached this Court, the learned counsel for the petitioner would submit that, though appeal provision is available under the Act to file an appeal, since the order impugned is dated 24.09.2018, against which, appeal cannot be filed now as there has been huge delay, which cannot be condoned by the Appellate Authority.

4. We afraid of this kind of reason stated by the assessee, who has been in long slumber, after three years or four years all of a sudden approached this Court invoking the extraordinary jurisdiction under Article 226 of the Constitution and tries to convert the Writ Court as a condone delay authority enabling these kind of lethargic litigant to approach the statutory Appellate Authority.

5. If this kind of practice is appreciated or encouraged, then the very sanctity of the limitation prescribed under the statute would get denuded or diluted, for which, absolutely there is no plausible reason available in this case as there has been notice issued before passing the impugned order by the Revenue to the assessee, which the assessee admittedly, having receipt of the same, has not responded, therefore, for no plausible reason, the order impugned cannot be interfered with.

6. In that view of the matter, this Court is not inclined to entertain this writ petition, accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary,
   State of Tamil Nadu,
   Commercial Taxes Department,
   Fort St. George, Chennai - 600 009.

2. The Deputy Commissioner/
   Appellate Authority
   Commercial Taxes, Salem.

3. The State Tax Officer,
   Harur Circle, Harur,
   Dharmapuri District.

+1cc to the Special Government Pleader(Taxes), S.R.No.13723
+1cc to Mr.J.Bharathiraja,Advocate Sr.No.14094(28/06/2022)

W.P.No.4206 of 2022

SR[co]
NSK 09/03/2022