IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NOS.7792, 7803 & 7805 OF 2022
AND
W.M.P.NOS.7816, 7824,7827 & 7828 OF 2022

Tvl.Padmavathy Agencies
Rep.by its Partner Karthik Sekharan
No.96J, Ramaourampudhur
Kottaimettu Street, Namakkal-647 001.

... Petitioner in all W.Ps.

-Vs-

The Assistant Commissioner (ST)
Commercial Taxes Department
Namakkal (Town) Assessment Circle
Namakkal.

... Respondents in all W.Ps.

Prayer in W.P.No.7792 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent herein in TIN No.33983120188/2012-13 dated 04.05.2021 and quashing the same as illegal.

Prayer in W.P.No.7803 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent herein in TIN No.33983120188/2013-14 dated 16.04.2021 and quashing the same as illegal.

Prayer in W.P.No.7805 of 2022 : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records on the file of the respondent herein in TIN No.33983120188/2014-15 dated 08.06.2021 and quashing the same as illegal.

In All W.P's

For Petitioner : Mr.S.Rajesh

For Respondents : Mr.V.Prashanth Kiran,
Government Advocate

COMMON ORDER

Since the issue raised in all these writ petitions is one and the same, with the consent of the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondent, these writ petitions were taken up together, heard and disposed of by this common order.

2. The relevant Assessment Years are 2012-13, 2013-14 and 2014-15 under the TNVAT Act (In short 'the Act'). In respect of these assessment years, the deemed assessment under Section 22 (2) of the Act was over. However, subsequently under Section 22 (3) of the Act, to have a scrutiny assessment and to pass revised assessment order, notice has been issued against the petitioner dealer by the Revenue and pursuant to those notices since the petitioner has not come forward to give reply, based on the available record and best judgment theory, the Revenue seems to have proceeded to complete the assessment and pass the revised assessment orders on 04.05.2021, 16.04.2021 and 08.06.2021 respectively in each of the writ petitions.

3. As against these assessment orders, though appeal can be preferred before the appellate authority under the provisions of the Act, of course within a period of 30 days and subsequent condonable period of 30 days, according to the petitioner due to the COVID-19 situation, appeal could not be filed within the time and also for medical reasons, subsequently also it could not be filed. Therefore, at this stage, the petitioner, without exhausting the appeal remedy before the appellate authority, has straight away approached this Court by filing these writ petitions challenging the revised assessment orders.

4. Mr.S.Rajesh, learned counsel for the petitioner would contend that, even though the petitioner is ready and willing to go before the appellate authority, however, if the petitioner goes before the appellate authority by filing a condone delay petition, that would not be possible because that would be an empty formality, as no appellate authority would entertain the appeal with delay under the provisions of the Act.

5. Heard Mr.V.Prashanth Kiran, learned Government Advocate who would submit that, the petitioner is well aware of the order passed in April and May 2021 and almost after an year now the petitioner belatedly approached this Court by filing these writ petitions by stating the reason that if the petitioner approaches the appellate authority belatedly that appeal would not be entertained and the reasons stated for the delay ie., the COVID-19 situation and medical reasons would not be accepted by the appellate authority.

6. Therefore, the learned Government Advocate would submit that, these reasons cannot be plausible reasons for this Court to invoke the extraordinary jurisdiction under Article 226 of the Constitution of India to entertain these writ petitions and therefore these writ petitions are liable to be dismissed.

7. I have heard the learned counsel appearing on both sides and have perused the materials placed on record.

8. As has been rightly pointed out by the learned Government Advocate, it is for the petitioner to approach the appellate authority and when they file an appeal, if there is any delay the same has to be explained, especially on the ground of COVID-19 situation or medical grounds if any, as alleged by the petitioner and that cannot be a reason for this Court to entertain these writ petitions against the impugned orders of assessment.

9. In that view of the matter, these writ petitions are liable to be rejected on the ground that the petitioner has to go before the appellate authority against the orders impugned. Therefore, these writ petitions are dismissed. No costs. However, it is open to the petitioner to approach the appellate authority against the impugned orders, where, if any petition is filed explaining the reasons for the delay ie., COVID-19 situation as well as medical grounds if any, the same would be objectively considered by the appellate authority and the same may be decided on merits and in accordance with law.

10. With these observations, all these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed. Registry is directed to return the original impugned orders after retaining a photocopy of the same and after getting due acknowledgement from the counsel on record.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

KST

To

The Assistant Commissioner (ST)
Commercial Taxes Department
Namakkal (Town) Assessment Circle
Namakkal.

Copy To

The Section Officer,
E.R. Section,
High Court, Madras.

(To return the original impugned orders after retaining a photocopy)

+1cc to Mr.S.Sivanandam, Advocate, S.R.No.22293

+1cc to the Special Government Pleader (Taxes), S.R.No.22456

W.P.Nos.7792, 7803 & 7805 of 2022

RK(CO)
RLP(20/05/2022)