



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.7936 of 2022

and

W.M.P.Nos.7937 & 7938 of 2022

M/s.A.B.Builders
Rep.by its Proprietrix
No.12A, College Nagar
Villupuram.

...Petitioner

-Vs-

Assistant Commissioner (ST)
Villupuram-I Assessment Circle
Villupuram District.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN 33924682891/2013-14 dated 02.07.2019 and quash this order as illegal and direct the respondent to pass fresh orders after furnishing the mismatch details taken from the website and pass fresh orders as per the Circular Instructions of the Commissioner of Commercial Taxes in Circular No.5 of 2021 (LW10/12521/2016) dated 24.02.2021 and pass orders as per the provisions of Section 5(1) of TNVAT Act.

For Petitioner : Mr.C.Baktha Siromani

For Respondent : Mr.R.Siddharth
Government Advocate

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus to call for the records of the respondent in TIN 33924682891/2013-14 dated 02.07.2019 and quash this order as illegal and direct the respondent to pass fresh orders after furnishing the mismatch details taken from the website and pass fresh orders as per the Circular Instructions of the Commissioner of Commercial Taxes in Circular No.5 of 2021 (LW10/12521/2016) dated 24.02.2021 and pass orders as per the provisions of Section 5(1) of TNVAT Act.

2.The petitioner is a dealer under the erstwhile TNVAT Act (In short 'the Act'). For the assessment year 2013-14, an order of assessment has been passed on 02.07.2019. Challenging the same, the present writ petition has been filed.



3. When this Court asked a question to the learned counsel for the petitioner as to why the petitioner has not chosen to file an appeal against the order impugned and further, why the petitioner, if at all wanted to challenge the same before this Court invoking Article 226 of the Constitution of India, has not come before this Court for the past nearly three years, the reason stated by the petitioner is that, the petitioner is affected by Hypertension and her Uterus was removed and she had Thyroid problem.

4. These medical infirmities are common in present day Society and in respect of these aspects, the petitioner could have approached the appellate authority at least belatedly, but not after three years. Without going to the appellate authority, the petitioner cannot come before this Court invoking the extraordinary jurisdiction.

5. It is not a case where opportunity was not given or for want of jurisdiction or violation of provision or the Statute, the order is liable to be assailed. However, it is a case where the impugned assessment order dated 02.07.2019 can very well be appealed before the appellate authority and after three years, conveniently the petitioner has come before this Court by filing the present writ petition without going before the appellate authority for obvious reasons or reasons best known to her. Therefore, this Court is not inclined to entertain this writ petition except to relegate the petitioner to go before the appellate authority and to file an appeal along with condone delay petition, where medical reasons or any other reason can be cited by the petitioner and whether it is worth to be noted or considered by the appellate authority, it is up to the appellate authority to take it up and decide the same.

6. In that view of the matter, this writ petition is liable to be dismissed. Accordingly, it is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

7. However, the dismissal of this writ petition will not preclude the right of the petitioner to prefer an appeal before the appellate authority, if she is advised to do so.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

KST



To

The Assistant Commissioner (ST)
Villupuram-I Assessment Circle
Villupuram District.

WEB COPY

+1cc to Mr.C.Baktha Siromoni, Advocate, S.R.No.23549

+1cc to the Special Government Pleader, (Taxes) S.R.No.22871

W.P.No. 7936 of 2022

SSI (CO)

RGA (20/05/2022)