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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WP.Nos.27904 & 27911 of 2022
and W.M.P.Nos.27196, 27200, 27205 & 27208 of 2022

Tvl.Sekhar Deepak Constructions Limited
Represented by its Managing Director
Mr.A.Sekhar
No.63, Dr.Radhakrishnan Salai
Fathima Nagar, Chennai – 600 087
Presently at No.241, Peters Road
Gopalapuram, Chennai – 600 086 .. Petitioners in both cases

Versus

1.Deputy Commissioner
(CT), (Appeal), Chennai – II (FAC)
3rd Floor, PAPJM Annexe Building
No.1, Greams Road, Chennai – 600 006

2.Assistant Commissioner (CT)(FAC)
Saligramam Assessment Circle
Chennai .. Respondents in both cases

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent and quash the impugned orders in N.DIS/488/2022 and N.DIS/489/2022 dated 10.08.2022 passed under Section 51(3) of the Tamil Nadu Value Added Tax Act, 2006 by the first respondent as illegal and not in accordance with law and consequently direct the 1st respondent to number the petitioner's appeal and consider the same on merits and in accordance with law.

For Petitioner : Mr.R.Sivaraman (both cases)
For Respondents : Mr.Harsharaj (in both cases)
Additional Government Pleader

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COMMON ORDER

These writ petitions have filed challenging the impugned orders passed by the first respondent in N.DIS/488/2022 and N.DIS/489/2022 dated 10.08.2022 passed under Section 51(3) of the Tamil Nadu Value Added Tax Act, 2006 by the first respondent as illegal and not in accordance with law, quash the same and consequently direct the 1st respondent to number the petitioner's appeal and consider the same on merits and in accordance with law.

2. The case of the petitioner is that the petitioner is a Limited Company engaged in the business of real estate and contructions assessed on the file of the second respondent. While so, the second respondent had issued impugned demand notices to the petitioner on 27.10.2021 for the year 2013-2014 and 2014-2015 towards purported escapement of turnover for various works awarded by TWAD Board/CMWSSB Chennai. Aggrieved, first appeals were filed before the first respondent on 31.03.2022, which was returned to the petitioner for non payment of 25% mandatory pre-deposit mandated under Section 51 of the Act 01.06.2022. The petitioner made the said payments on 05.08.2022 and filed the same along with appeal papers. The first respondent passed the impugned order stating that the appeal was not represented within the time limit contemplated under Rule 14(3) fof TNVAT Rules, 2007. Challenging the orders of the first respondent, the petitioner has filed these writ petitions.

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3. The learned counsel for the petitioner submitted that owing to Covid pandemic, the petitioner was not able to arrange the pecuniary condition as prescribed under Rule 14(3) fof TNVAT Rules, 2007, however, the petitioner has made the appeal before the first respondent well within the time as prescribed under the Act. Hence, the present impugned orders are not sustainable one and seeks this Court for issuance of appropriate orders.

4. The learned Additional Government Pleader fairly submitted that the impugned orders be set aside and the matter may be remitted back to the official respondent for consideration, since, the petitioner has paid the mandatory pre-deposit prescribed under the Act.

5. Considering the fact that the petitioner had made appeals before the first respondent well within the time as prescribed under the Act and had paid the entire mandatory pre-deposit before the first respondent, this Court is of the view that the impugned orders are liable to be set aside and the matter is remanded back to the first respondent for consideration. Hence, the first respondent is directed to take up the appeals filed by the petitioner without reference to the limitation aspect and consider the matters on merits and pass

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appropriate order(s), after providing an opportunity of personal hearing to the petitioner within a period of 12 weeks from the date of receipt of a copy of this Order.

6. With the above directions, these writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

26.10.2022

dhk
Index:Yes/No

To,

1.Deputy Commissioner
(CT), (Appeal), Chennai – II (FAC)
3rd Floor, PAPJM Annexe Building
No.1, Greams Road, Chennai – 600 006

2.Assistant Commissioner (CT)(FAC)
Saligramam Assessment Circle
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M.DHANDAPANI, J.

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