BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P(MD).No.10817 of 2022

Pooja Timber and Saw Mill
194/3-B-6 Pudukottai Main Road,
Airport, Trichy. ...Petitioner

Vs.

The State Tax Officer,
Ponmalai Assessment Circle,
Trichy-20. ...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 18.12.2021 and seller dealer with regard to TNVAT return for the period 2017-18.

For Petitioner : Mr.K.Rajesh Kanna
For Respondent : Mr.P.Subbaraj
Special Government Pleader

ORDER

This writ petition has been filed seeking to consider the petitioner's representation, dated 18.12.2021.

2. The petitioner in his representation stated that he is eligible to I.T.C. availed for the year 2017-2018 and he had rightly recorded the same in his returns. Here, the petitioner gives the particulars of 7 transactions during the period from 28.05.2017 to 04.06.2017 from Purvika Impex in Invoice Nos.69, 65, 62, 78, 73, 72 and 70 and the tax amount involved is Rs.36,33,529.04 and the same not considered, since the relevant documents could not be filed within the date, as the departmental portal did not accept the petitioner's filing of the documents, in support of his contention, he produced the Purvika Impex, attempt to file the revised return on 05.05.2017, which was not accepted. Later, another attempt made on 06.06.2017 and also on 25.12.2017, all the returns could not be uploaded. Thereafter, physical returns filed by Purvika Impex, which is not considered.

3. On the other hand, the Assessing Officer in TIN No.33523562373 2017-2018, dated 16.10.2020 found the petitioner as defaulter and issued a demand notice in Form-I to pay the tax due under Section 19 (16) of the Tamil Nadu Values Added Tax Act, 2006, for a sum of Rs.36,33,530/-.

4. The learned Special Government Pleader for the respondent submits that the petitioner was served with a notice for personal hearing on 02.11.2020 to make his submissions and to produce documents in support of his contention. The petitioner failed to participate in the personal hearing. Thereafter, the Assessment Officer passed the order, dated 16.10.2020. The documents produced by the petitioner showing that the portal did not accept the furnishing of returns, pertain to the seller of the petitioner and not of the petitioner. The Department usually refers to the petitioner/assessee's documents and in case of any doubt, further clarification only the seller documents are sought for. In this case, the petitioner not produced any documents in support of his contention, but relies on the documents of the seller. He further submitted that as per Section 51 of the Act, the petitioner to file a statutory appeal before the Deputy Commissioner within a period of 30 days.

5. The learned counsel for the petitioner submits that since they had not filed any appeal before the Deputy Commissioner, this writ petition has been filed on 27.04.2022 and now, the limitation period has lapsed.

6. This Court finds that statutory appeal has to be filed under Section 51 of the Tamil Nadu Values Added Tax Act, on the other hand, the petitioner approached this Court. As far as the delay is concerned, the appeal is to be filed within a period of 30 days. The petitioner is directed to file an appeal within a period of three weeks from the date of receipt of copy of this order. Thereafter, the concerned authority shall entertain the appeal and decide the case on its own merits.

7. In view of the above, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The State Tax Officer,
Ponmalai Assessment Circle,
Trichy-20.

+1 CC to M/s.A.RAMESH, Advocate (SR-24654[F] dated 08/06/2022)

+1 CC to M/s.SPL.GP (SR-24589[F] dated 08/06/2022)

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MGJ(15.06.2022) 3P 4C