

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.Nos.154 and 155 of 2015
and
M.P.Nos.1 and 1 of 2015

M/s.Sankar Metal Mart
represented by its Proprietor-R.Sankar,
No.54,Amirthi Main Road,
Pennathur,
Vellore District.

.. Appellant in
both writ appeals

Vs.

The Assistant Commissioner (CT),
Vellore (Rural),
Vellore.

.. Respondent in
both writ appeals

Both writ appeals are preferred under Clause 15 of the Letters Patent against the order of this court dated 30.10.2014 made in W.P.Nos.28325 and 28326 of 2014.

Prayer in W.P.No.28325 of 2014: Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, to call for the impugned proceedings of the respondent in TIN.33444323382/2012-13 dated 30.06.2014 and to quash the same as illegal, contrary to the provisions of the TNVAT Act, 2006 and violative of the Principles of natural justice.

Prayer in W.P.No.28326 of 2014: Petition filed under Article 226 of the Constitution of India, praying for the issuance of writ of certiorari, to call for the impugned proceedings of the respondent in TIN.33444323382/2013-14 dated 30.06.2014 and to quash the same as illegal, contrary to the provisions of the TNVAT Act, 2006 and violative of the Principles of natural justice.

For Appellant : Ms.R.Hemalatha

For Respondent : Mr.S.Kanmani Annamalai, AGP(T)

COMMON JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeals arise from the judgment dated 30.10.2014 passed in W.P.Nos.28325 and 28326 of 2014.

2. The appellant / writ petitioner questioned the proceedings of the respondent in TIN.33444323382/2012-13 and TIN.33444323382/2013-14 dated 30.6.2014 in W.P.Nos.28325 and 28326 of 2014 respectively on the ground that the order has been passed without affording an opportunity of hearing to the writ petitioner.

3. The learned Single Judge, after examining the facts of the case, held as under :

"6.In any event, this issue has to be canvassed before the appellate authority, since as against the impugned order, the petitioner has an effective alternative remedy by way of an appeal before the appellate authority. The writ petitions are held to be not maintainable and accordingly, the same are dismissed. However, liberty is granted to the petitioner to file an appeal before the appellate authority and if the appeal is filed within 15 days from the date of receipt of a copy of this order, the appellate authority shall entertain the appeal without rejecting the same on the ground of limitation and proceed with the same in accordance with law."

4. There is no dispute that the impugned orders dated 30.6.2014 are appealable and as such there is no reason to invoke the extraordinary jurisdiction of this court under Article 226 of the Constitution of India before taking recourse to the statutory appellate forum. The learned Single Judge has rightly come to the conclusion that the writ petitions are not maintainable on account of availability of statutory appellate forum. We do not find any reason to interfere with the same. Thus, both the writ appeals are dismissed. No costs. However, on the request of the learned counsel for the appellant, one week time, from the date of receipt of copy of this order, is granted to the appellant to prefer statutory appeal, if so advised, under the provisions of law. Consequently, connected

miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vvk

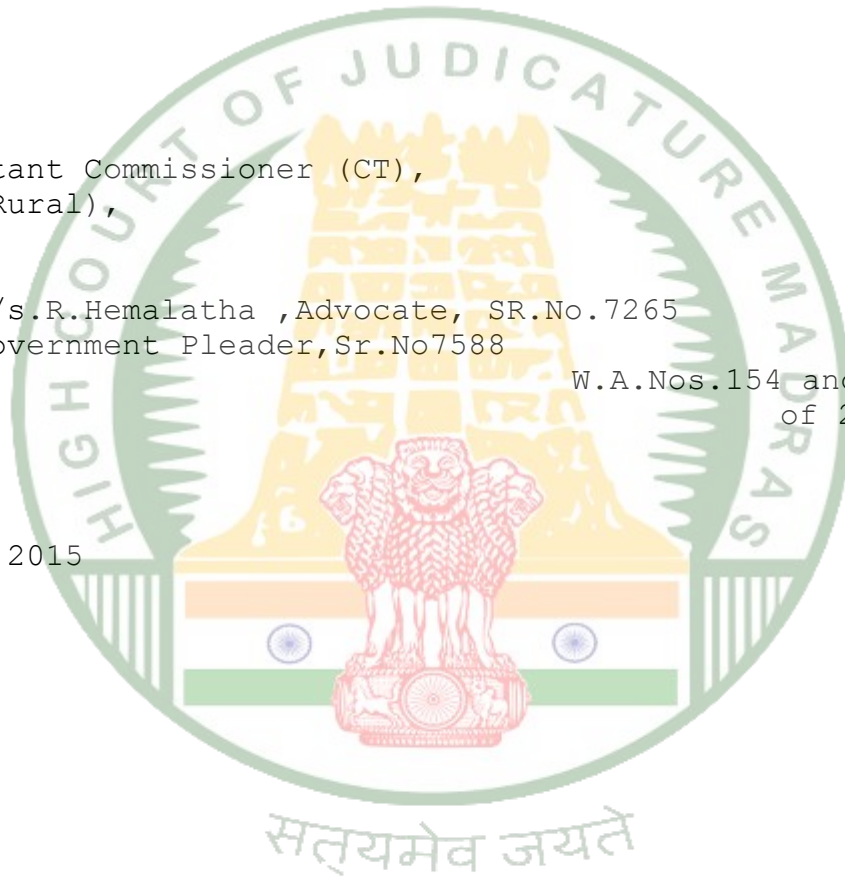
To

The Assistant Commissioner (CT),
Vellore (Rural),
Vellore.

2 cc to M/s.R.Hemalatha ,Advocate, SR.No.7265
1 cc to Government Pleader,Sr.No7588

W.A.Nos.154 and 155
of 2015

vsn(co
pmk..27.2.2015



WEB COPY