IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2015

CORAM

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

W.A. No. 505 of 2015

M/s. Naveen Kumar Fuels,
rep. By its Partner
G. Vijayalakshmi,
No.46 Rangapuram,
Phase-V, Vellore 632 009. ...Appellant

Vs.

The Commercial Tax Officer,
Vellore (Rural),
Vellore. ...Respondent

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 12.01.2015 passed in WP.No.657/2015.

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33854324272/2012-13 dated 20.11.2014 quash the same as illegal and contrary to the scheme of the Act.

For Appellants : Ms. R. Hemalatha

For Respondent : Mr. Kanmani Annamalai
Govt. Advocate (T)

JUDGMENT

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

The appellant is before us against the order dated 12.1.2015 passed by the learned single Judge in W.P.No. 657 of 2015.

2. The appellant/ writ petitioner came up with the writ petition questioning the legality and validity of the impugned proceedings dated 20.11.2014, whereunder, the liability of the petitioner for the assessment year 2012-2013 has been assessed.

3. Learned counsel appearing for the appellant/ writ petitioner submits that the impugned assessment order has been passed without affording statutory opportunity of hearing to the appellant/ writ petitioner. Thus, this Court is fully competent to entertain the writ petition by exercising the power under Article 226 of the Constitution of India. It is further contended that the observation of the learned single Judge that proper opportunity was afforded to the appellant/writ petitioner is contrary to the facts on record.

4. Mr. Kanmani Annamalai, learned counsel appearing for the Revenue, in response, submits that the statutory appellate forum is available and therefore, there is nothing to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. We have carefully examined the submissions of the learned counsel for the parties and also perused the pleadings and documents appended thereto.

6 It is indisputable that the impugned assessment order dated 20.11.2014 is appealable before the Deputy Commissioner under the Provisions of Law. The petitioner is at liberty to raise all the grounds, including lack of opportunity of hearing. Thus, we are of the view that the observations, if any, made by the learned single Judge may not influence the appellate authority in exercise of its power, on merit.

7. Resultantly, the writ appeal is dismissed and also the writ petition, reserving liberty to the appellant/ writ petitioner to take recourse to the Statutory Appellate Authority as available under the Provisions of Law. If the appeal is preferred within a period of two weeks from the date of receipt of a copy of this order, the

question of limitation need not be examined. Consequently, M.P. No. 1 of 2015 is dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Commercial Tax Officer,
Vellore (Rural),
Vellore.

1 CC to Ms. R. Hemalatha, Advocate SR.No. 17040

1 CC to the Government Pleader, SR.No. 17308

W.A.No.505 of 2015

SSI (CO)
PSI (10.04.2015)