IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 21.04.2015

CORAM:

THE HON'BLE MR. JUSTICE T. RAJA

W.P. Nos. 11492 and 11493 of 2015
and
M.P. Nos. 1 and 1 of 2015

M/s.Raj Printers
represented by is Proprietor .. Petitioner in both the W.Ps

Vs.

1. The Appellate Deputy Commissioner (CT),
Chennai (Central),
C.T.Buildings, (Annexe),
Greams Road, Chennai - 6.

2. The Assistant Commissioner (CT),
Nandanam Assessment Circle,
Chennai - 28. .. Respondents in both the W.Ps

PRAYER: W.P.No.11492 of 2015 has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus to call for the impugned proceedings of the first respondent in A.P.No. & Year : TNGST.15/2012 and quash the impugned order dated 17.11.2014 and further direct the first respondent to hear the appeal in A.P.No. & Year : TNGST.15/2012 filed by the petitioner on merits and pass orders in accordance with law.

W.P.11493 of 2015 has been filed under Article 226 of the Constitution of India to issue an order of Writ of Certiorarified Mandamus to call for the impugned proceedings of the second respondent in TNGST/1582088/2006-2007 and quash the impugned order dated 30.4.2012 and further direct the second respondent to pass an assessment for the asst. year 2006-2007 under the TNGST Act for the period from 1.4.2006 till 31.12.2006 under section 87-A of the TNVAT Act.

For petitioner : Mr. P.Rajkumar in both the W.Ps
For respondents : Mr.S.Kanmani Annamalai,
Addl. Govt. Pleader in both the W.Ps

C O M M O N   O R D E R

Both the writ petitions have been filed by M/s.Raj Printers represented by its Proprietor. When the matter was taken up, the learned counsel appearing for the petitioner submitted that the writ petition No.11493 of 2015 has become infructuous. Recording the same, the Writ Petition No.11493 of 2015 is dismissed as infructuous.

2.The petitioner filed an appeal under Section 31 of the TNGST Act against the assessment order dated 30.04.2012 passed by the second respondent and the same was rejected by the first respondent on the ground that the appeal against an order passed under Section 87A of the TNVAT Act is not maintainable under Section 151 of the TNVAT Act. Further, in the impugned order, it has been stated that there is no provision under the TNGST Act for transfer of the appeal petition to the Territorial Joint Commissioner. According to the petitioner, without assigning any reason as to how the petitioner's appeal does not lie or whether the petitioner should prefer any revision, the first respondent rejected the appeal. Contending further that the approach adopted by the first respondent is untenable, the petitioner has filed this writ petition, it is pleaded.

3.Mr.S.Kanmani Annamalai, learned Additional Government Pleader submitted that there is no specific or precise conclusion given by the first respondent, while rejecting the appeal of the petitioner holding that the appeal does not lie against the order under Section 87A of the Tamil Nadu Value Added Tax Act.

4. In my view also, when the first respondent comes to the conclusion that no appeal would lie against the order passed under Section 87A of the Tamil Nadu Value Added Tax Ac, it has to be necessarily cited as to what should be the remedy available in law to the petitioner. In the present case, the first respondent failed to indicate whether the order sought to be challenged before the first respondent is appealable or revisionable, therefore, it is liable to go.

5. In the light of the above, the impugned order passed by the first respondent (W.P.No.11492 of 2015) is set aside and the matter is remanded back to the first respondent to consider the case on merits and pass appropriate orders, in accordance with law, by giving suitable finding and such exercise shall be done within a period of two months from the date of receipt of the copy of this order. It is needless to mention that it is open to the petitioner to canvas the maintainability of the appeal also.

6. With the above direction, the writ petition in W.P.No.11492 of 2015 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

vrc/mmi

-s/d-
Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

To

1. The Appellate Deputy Commissioner (CT),
Chennai (Central),
C.T.Buildings, (Annexe),
Greams Road, Chennai - 6.

2. The Assistant Commissioner (CT),
Nandanam Assessment Circle,
Chennai - 28.

+ 1 cc to Mr.P.Rajkumar, Advocate SR 21597

+ 1 cc to the Spl.Govt.Pleader (Taxes) SR 21852

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