BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2015

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD).No.10937 of 2015
and
M.P.(MD).Nos.1 and 2 of 2015

M/s.Nagappa Corporation,
rep.by its Proprietor L.N.Letchumanan,
No.90, W.B.Road,Trichy ... Petitioner

Vs.

1.The Appellate Deputy Commissioner (CT),
Commercial Tax Building, Court Campus,
Trichy.

2.The Assistant Commissioner(CT),
Mailamchandai -I Circle, Trichy ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari calling for the entire records on the file of the first respondent in VAT Appeal No.259/2014 dated 04.05.2015 and quash the same.

For petitioner : Mr.S.Karunakar
For Respondents : Mr.R.Karthikeyan
Additional Government Pleader takes notice

ORDER

The petitioner has preferred this Writ Petition praying for a Writ of Certiorari to call for the entire records on the file of the first respondent in VAT Appeal No.259/2014 dated 04.05.2015 and quash the same. By the said order, the first respondent had partly dismissed and partly remanded the appeal by sustaining the exemption claimed on the purchase return turn over, sales return and discount issue. The first respondent had remanded the other issues to the second respondent for fresh disposal. But pertaining to **(**)difference arrived in Trading Account**, the first respondent has not adduced any finding. Feeling aggrieved, the petitioner is before this Court.

2. Mr.R.Karthikeyan, learned Additional Government Pleader takes notice for the respondents.

3. By consent, this writ petition is taken up for final disposal.

4. Though very many grounds have been raised in the ground of appeal filed in support of this Writ Petition, at the time of arguments, the learned Counsel for the petitioner would specifically submit that the

respondents considered only issues Nos.I to IV of the impugned order and raised in the grounds of appeal and there is no discussion at all with regard to issue No.V relating to **(**)difference arrived in Trading Account** in P&L account and therefore, on this short ground alone, the order impugned in this Writ Petition is liable to be set aside.

5. The learned Additional Government Pleader would submit that the order passed by the first respondent is a well considered one. If aggrieved, the applicant has to prefer an appeal before the State Sales Tax Appellate Tribunal only and not to come up by way of this Writ Petition. However, instead of preferring second appeal, the petitioner has approached this Court, which is unsustainable and he prayed to dismiss the Writ Petition.

6. Admittedly, the respondents went into details of the grounds of appeal raised by the petitioner in respect of issues Nos.I to IV. However, on the face of it, it is seen from the impugned order that there is no discussion with regard to issue V of the grounds of appeal raised by the petitioner. The said issue related to **(**)difference arrived in Trading Account** in P&L account of the petitioner so as to attract Section 19(20) of the VAT account has not at all been discussed in the impugned order. Therefore, the ends of justice would be met by remitting the matter to the first respondent for consideration of issue No.V alone. Hence the order impugned in this Writ Petition stands set aside and the matter is remitted back to the first respondent for fresh consideration in respect of issue No.V alone. After considering the said issue, the first respondent is directed to pass appropriate orders, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

6. This Writ Petition stands disposed of to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
The Assistant Registrar

(**)Corrected as per order of this Court dated 29.07.2015 made in WP(MD).No.10937/2015

/True copy/

Sub-Assistant Registrar

To
(To be Substituted for the order already despatched on 20.07.2015)

1.The Appellate Deputy Commissioner (CT),
Commercial Tax Building, Court Campus,Trichy.

2.The Assistant Commissioner(CT),
Mailamchandai -I Circle, Trichy.

+1cc to Mr.S.Karunakar, Advocate SR.NO.35721

ssm
Sm:SAR I:20.07.2015:2P/4C
AA/11.08.2015/ 2p- 4c/ (Corrected Order)