IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 05.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33368 of 2014
&
M.P.No.1 of 2014

M/s.Four Season
No.FG-1, James Apartment
Balar Kalvi Avenue
Ritherdon Road
Purasawakkam
Chennai - 600 007 ... Petitioner

Vs.

The Assistant Commissioner (Additional) (CT-I)
Purasawakkam Assessment Circle
Chennai ... Respondent

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari to call for the records of the impugned order of re-assessment in TIN No.33710483634/2011-12 dated 13.12.2004 on the files of the respondent herein and quash the same.

For Petitioner : Mrs.Aparna Nandakumar

For Respondent : Mr.Manoharan Sundaram
Additional Government Pleader (Tax)

O R D E R

Heard Mrs.Aparna Nandakumar, learned counsel for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondent.

2. After elaborately hearing the learned counsel for the petitioner, this Court is of the view that the petitioner should file an appeal as against the impugned order since the impugned order levies penalty on the petitioner, which was proposed in the show-cause notice dated 10.02.2014. However, while submitting the reply, the petitioner had not raised any specific contention as against the allegation against the petitioner that they availed refund of Input Tax Credit paid on purchase of those goods which were exported as such or

consumed or used in the manufacture of other goods that exported as specified in Section 18(1) of the TNVAT Act, 2006, but they have not made reversal of the ITC for this year so far.

3. The learned counsel for the petitioner submitted that though the petitioner has given a specific reply to the proposal to levy penalty based on its accusation against the petitioner, nevertheless the petitioner after the inspection were completed on 06.11.2013, on 20.11.2013, the petitioner do have reversed the Input Tax Credit and therefore, the Authority ought to have examined the petitioner's conduct. However, the petitioner, having not raised all these issues before the authority, this Court cannot interfere with the impugned order on the said ground.

Accordingly, this writ petition is disposed of by directing the petitioner to avail the appellate remedy available under the Act and if such appeal is presented within 30 days from the date of receipt of a copy of this order, the Appellate Authority shall entertain the appeal without reference to limitation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

gpa

To

The Assistant Commissioner (Additional) (CT-I)
Purasawakkam Assessment Circle
Chennai.

+1cc to Mrs.Aparna Nandakumar, Advocate, S.R.No.37630
+1cc to the Special Government Pleader(T), S.R.No.38195

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CTK(CO)
CA(22/07/2016)