IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.28238 to 28242 of 2015
and
M.P.Nos.1 to 1 of 2015

M/s.Dhanvijay Textiles (P) Ltd.,
Rep. By its Director
Sri.K.Vijayashankar
No.8/90-B, Jadayampalayampudur
Boothimedu
Annur Road
Mettupalayam
Coimbatore - 641 301 .. Petitioner in all

Vs.

The Assistant Commissioner (CT) (FAC)
Mettupalayam Circle
Mettupalayam .. Respondents (in all)

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 respondent in TIN 33742042456/2007-08, 2008-2009, 2009-2010, 2011-2012 respectively and quash the impugned order dated 30.07.2015 passed therein.

For Petitioner : Mr.B.Raveendran

For Respondent : Mr.Manokaran Sundaram
Additional Government Pleader

C O M M O N O R D E R

Heard Mr.B.Raveendran, learned counsel appearing for the petitioner and Mr.Manoharan Sundaram, learned Additional Government Pleader appearing for the respondent.

2.This is the second time the petitioner is before this Court with regard to the rate of tax payable by the petitioner on the activity carried on by their textile mill. Earlier the petitioner had filed W.P.Nos.32209 to 32213 of 2013 wherein the orders of assessment were challenged. The Court allowed the writ petitions by common order dated

23.04.2014, set aside the orders of assessment and directed the respondent to issue fresh notice to the petitioner and decide the matter, whereupon a notice was issued to the petitioner and the petitioner has filed their objections, pursuant to which the impugned orders of assessment have been passed.

3. On a perusal of the impugned order it is seen that the factual aspects have been gone into by the Assessing Officer and he has given reasons to dislodge the objections. Necessarily the petitioner has to plead the factual aspects and establish that factually there has been a defect in the finding of the Assessing Officer. This exercise could not be done in a writ petition for which the petitioner has an effective alternative remedy of appeal before the Appellate Authority. Therefore, the petitioner has to necessarily pursue his appellate remedy and not bypass the same.

4. Accordingly, while declining to interfere with the orders of assessment, liberty is granted to the petitioner to file an appeal and if such appeal is filed within 30 days from the date of receipt of a copy of this order, the appellate authority shall not reject the appeal petition on the ground of limitation.

5. The writ petitions are dismissed with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

When the above order was dictated, the learned counsel for the petitioner requested that the original impugned orders of assessment may be returned to the petitioner for filing the appeal. The Registry is directed to return the original impugned orders to the petitioner.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gpa
To
The Assistant Commissioner (CT) (FAC0
Mettupalayam Circle
Mettupalayam

1 cc to Mr.B.Raveendran, Advocate, sr.31855
1 cc to The Special Government Pleader(Taxes), sr.32018

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