IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.32521 and 32522 of 2015
&
M.P.Nos.1 and 1 of 2015

M/s.Rite Brand Retail (P) Ltd.,
Rep by its Authorised Signatory
Mr.M.Imthiz Ahmed
Plot No.32, G Block RE Classic Apartment
New No.68, Baroda Street, West Mambalam
Chennai - 600 033 ... Petitioner in both the writ petitions

vs.

1. The Assistant Commissioner (CT)
Kodambakkam Assessment Circle
No.1, PAPJM Building Annexe
4th Floor, Greams Road, Chennai - 600 006

2. The Assistant Commissioner (CT)
Kilpauk Assessment Circle
Chennai - 600 010 ...Respondents in both the writ petitions

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records of the first respondent in CST/1009921/2010-11 and CST/1009921/2012-11 and quash the impugned orders dated 17.08.2005 and 19.08.2015 respectively.

For Petitioner : Mr.V.Sundareswaran

For Respondents : Mr.Kanmani Annamalai
Additional Government Pleader

COMMON ORDER

I have elaborately heard Mr.V.Sundareswaran, learned counsel for the petitioner and Mr.S.Kanmani Annamalai, learned Additional Government Pleader for the respondents.

2. Admittedly, the petitioner has an effective alternative remedy as against the impugned proceedings by way of an appeal. The petitioner has to satisfy this Court as to why he has bypassed that appellate remedy, especially when the matter relates to collection of tax. Learned counsel for the petitioner made his best endeavour to convince this Court by contending that C Forms are with the principal and the principal has filed it before its Assessment Circle, i.e., the second respondent and his assessment has been completed and therefore the first respondent ought to have called for those C Forms and thereafter proceeded to finalize the assessment. However, in the impugned proceedings, the Assessing Officer, namely the first respondent has opined that the petitioner's transactions are not pertaining to their principal as claimed by them and it is their independent transaction and hence, it should have been accounted for in the petitioner's books of accounts and the petitioner should have paid tax due thereon by disclosing such turnover. This observation is said to be factually incorrect and the learned counsel submitted that C Form should be directed to be produced by the second respondent.

3. In my view, it is a disputed question of fact as to whether a transaction was an independent transaction or a transaction pertaining to the principal and the same cannot be adjudicated in a writ petition. Therefore, the petitioner should definitely resort to the remedies available under the Act. It is needless to state that if the petitioner is of the view that the impugned orders suffers from error apparent on the face of the record, it is well open to the petitioner seek for rectification or on the other hand, if the petitioner has a good case on merit, he can very well file an appeal before the Appellate Authority.

4. During the course of the arguments, the learned counsel for the petitioner submitted that he will approach the second respondent and make a request for furnishing the C Form, but this Court does not wish to make any observation in this regard. It is for the petitioner to make use of any one of the remedies as he may be advised.

In view of the above, both the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Assistant Commissioner (CT)
   Kodambakkam Assessment Circle
   No.1, PAPJM Building Annexe
   4^{th} Floor, Greams Road, Chennai - 600 006

2. The Assistant Commissioner (CT)
   Kilpauk Assessment Circle
   Chennai - 600 010

1 cc to Special Government Pleader,(Taxes), sr.29936

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sv co
kra 14.06.2016