IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE Dr.JUSTICE ANITA SUMANTH

W.A.No.291 of 2016
and
C.M.P.No.4637 of 2016

M/s.P.R.N.Petroleum,
rep. by Proprietrix,
Ms.S.Pranambal,
No.58, Thirunallar Road,
Karaikal 609 602. ..Appellant/Petitioner

vs

1 The Union Territory of Pondicherry,
Rep. by its Secretary (Finance),
Puducherry.

2. The Commercial Tax Officer
Karaikal. ..Respondents/Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 11.3.2014 passed in W.P.No.9788 of 2009 on the file of this court.

Writ petition filed under Article 226 of the constitution of India praying for a writ of certiorari calling for the records of the second respondent in his proceedings in PGST 403415/2006-07, quash the assessment order dated 4.5.2009 insofar as it relates to the levy of penal interest under section 27(3) of the Pondicherry General Sales Tax Act, 1967.

For appellant : Mr.B.Raveendran
For Respondents : Mrs.Reena Ishwarya, AGP(Pondy)

JUDGMENT
(Judgment of the court was made by Dr.Anita Sumanth, J.,)

Heard Mr.Raveendran, learned counsel appearing for the appellant and Mrs.Reena Ishwarya, learned Additional Government Pleader (Pondy) appearing for the respondents.

2. This appeal is filed challenging an order of the learned Single Judge dated 11.3.2014, dismissing the writ petition, in limine, and directing the appellant to avail of statutory alternative remedy. The issue relates to the levy of penalty under section 27(3) of the Pondicherry General Sales Tax Act, 1967 ('Act').

3. The parties would agree that in the case of the same assessee, in respect of an earlier period, the identical issue as raised in this writ appeal has been decided by this court in favour of the assessee in P.R.N.Petroleum v. Union Territory of Pondicherry and another ((2010) 32 VST 500). Though this judgment is said to have been brought to the notice of the learned Single Judge, it has unfortunately, not been taken into account in passing the impugned order. In view of the decision cited supra, there is no need to relegate the assessee to statutory appeal.

4. The learned Additional Government Pleader appearing for the Revenue would contend that the assessee had, in fact, availed alternative remedy as directed by this court, but before the wrong forum. Be that as it may, this would not stand in the way of us considering the writ appeal on merits since admittedly, the issue involved stands covered in favour of the assessee. The writ appeal stands allowed without costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.
To:
1 The Union Territory of Pondicherry,
Rep. by its Secretary (Finance),
Puducherry.

2. The Commercial Tax Officer
Karaikal.

+1cc to M/s. The Government Pleader Puducherry, SR.76439
+1cc to M/s. B. Raveendran, Advocate, S.R.No.76246

GMI(CO)
EU 15.2.17

CA(/06/2015)W.A.No.291 of 2016