In the High Court of Judicature at Madras

Dated : 23.11.2016

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.41088 of 2016 & WMP.No.35079 of 2016

Tvl.Pandy Ceramics, rep.by its
Proprietor Mr.S.Manivannan ...Petitioner

Vs

The Commercial Tax Officer, Arni
Assessment Circle, Arni-632513.
Tiruvannamalai District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent proceedings in TIN/33434563608/2015-16 dated 4.11.2016 and quash the same being violative of the principles of natural justice, illegal, invalid and against the law and also the law laid down by this Court.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Mr.K.Venkatesh, GA

ORDER

Mr.K.Venkatesh, learned Government Advocate accepts notice for the respondent. Heard both.

2. The petitioner is a registered dealer on the file of the respondent. In this writ petition, the petitioner challenges the order of assessment under the Tamil Nadu Value Added Tax Act, 2006 for the year 2015-16.

3. The learned counsel for the petitioner submits that the impugned order has been passed without due application of mind,

without cogent reasons and without taking note of day book, ledger, purchase and sale bills with income tax statement, which were called for by the Assessing Officer by notice dated 19.8.2016.

4. On a perusal of the impugned order, prima facie it appears to be an order containing sufficient reasons. The factual position or the correctness of the interpretation of the factual position is a matter, which the petitioner should agitate before the Appellate Authority. When disputed questions of fact are involved, this Court will not exercise its discretion under Article 226 of The Constitution of India and interfere with the assessment order, especially when the issue arises under a Taxation Statute.

5. In the instant case, the petitioner has to necessarily avail the appeal remedy. Therefore, the writ petition is held to be not maintainable.

6. Accordingly, the writ petition is dismissed. No costs. Consequently, the above WMP is also dismissed.

7. However, liberty is granted to the petitioner to file an appeal before the Appellate Authority. If such appeal is filed within 30 days from the date of receipt of a copy of this order, the Appellate Authority shall entertain the appeal without rejecting the same on the ground of limitation. It is needless to state that the petitioner has to comply with the condition of pre-deposit at the time of filing the appeal. It is also needless to point out that the Appellate Authority shall consider all the grounds to be raised by the petitioner without in any manner influenced by the observations or findings rendered by the Assessing Officer in the impugned order. No costs. Consequently, the above WMP is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

The Commercial Tax Officer, Arni Assessment Circle, Arni-632513.
Tiruvannamalai District.

Copy to
The Section Officer,
ER Section, High Court, Madras.

+1cc to Mr.D.Vijayakumar, Advocate Sr.68205
+1cc to the Special Government Pleader Sr.68289

WP.No.41088 of 2016&
WMP.No.35079 of 2016

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srg 16/12/2016