



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2016

CORAM

THE HONOURABLE **MR. JUSTICE T. RAJA**

W.P(MD) .No.12116 of 2016

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M/s.S.M.R.Agencies,  
rep.by its Proprietor Shahul Hameed,  
No.97, Srngiliyandapuram Main Road,  
Near Mariyan Theatre,  
Trichy.

... Petitioner

Vs

1.The Appellate Deputy Commissioner(CT),  
Trichy.

2.The Assistant Commissioner(CT),  
Thiruverumbur Assessment Circle,  
Trichy.

... Respondents

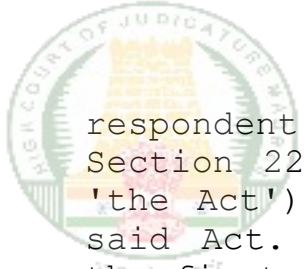
Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records in S.P.No.88/2016 in VAT AP No.116/2016 dated 13.06.2016 on the file of the first respondent and quash the same as illegal and direct the second respondent to accept the personal bond to be executed by the petitioner in lieu of security.

For petitioner : M/s.S.Karunakar  
For Respondents : Mr.R.Karthikeyan  
Additional Government Pleader

### ORDER

M/s.S.M.R.A.Agencies, represented by Mr.Shahul Hameed challenges the impugned order of the first respondent dated 13.06.2016, on the ground that the conditional order imposed by the first respondent is an onerous one, more particularly, instead of paying a sum of Rs.20,797/-, on the disputed tax, the petitioner has wrongly paid a sum of Rs.2,08,000/-, which is more than the amount directed by the first respondent.

2. Learned counsel for the petitioner submitted that the petitioner is an assessee under the respondents. After inspection by the Enforcement Wing Officials on 09.04.2015, the second



respondent had passed a revised order dated 03.05.2016 under Section 22(4) of the Tamil Nadu Value Added Tax Act. (for short 'the Act') along with levy of penalty under Section 22(5) of the said Act. Thereafter, the petitioner preferred an appeal before the first respondent. On hearing the appeal, the first respondent has passed the present impugned order, which is challenged in the present Writ Petition.

3. Learned Government Advocate was put on notice for the respondents.

4. This Court is unable to accept the contention of the petitioner for the simple reason that when already an appeal is pending before the first respondent, even as according to the petitioner, if more amount is paid than the amount required to be paid by the petitioner, it is open to the first respondent to consider the issue in question and pass appropriate orders. In otherwords, it is open to the petitioner to move an appropriate application before the first respondent stating the actual facts and work out his remedy in the manner known to law and if any application is moved, the first respondent shall consider the same on merits. However, invoking the extraordinary remedy available under Article 226 of the Constitution of India, cannot be countenanced, when, especially, there is an alternative remedy available to the petitioner.

5. In view of the above, this Writ Petition stands dismissed. No costs.

Sd/-  
Assistant Registrar

/True Copy/

Sub Assistant Registrar

ssm

To

1.The Appellate Deputy Commissioner(CT),Trichy.

2.The Assistant Commissioner(CT),  
Thiruverumbur Assessment Circle,  
Trichy.

+1CC to Mr.S.Karunakar, Advocate Sr.No.36654

+1CC to Spl.Government Pleader Sr.No.36128

GJM/ARK/PV/25.7.16-2p-5c

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