IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.Nos.5965 & 5966 of 2017 and
W.M.P.Nos.6389 & 6390 of 2017

M/s.Asset Reconstruction Company India Limited,
Rep.by its Authorised Signatory Mr.Saravanan.S
No.715-C, Spencer Plaza, 7th Floor,
No.769, Anna Salai,
Chennai - 600 002. ... Petitioner in both WPs

Vs

1. The Deputy Commercial Tax Officer,
   Anna Salai Assessment Circle,
   PAPJM Buildings, 4th Floor,
   Greams Road, Chennai - 600 006.

2. The Assistant Commissioner (CT)
   Anna Salai Assessment Circle,
   PAPJM Buildings, 4th Floor,
   Greams Road, Chennai - 600 006.
   ... Respondents in both WPs

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, call for the records of the second Respondent in TIN:33696288707/2009-10, TIN: 33696288707/2013-14 respectively, dated 18.01.2017 and quash the same as ultravires to the provisions of the Tamil Nadu Value Added Tax Act, 2006 suffering from an error apparent on the face of records lacking jurisdiction.

For Petitioner
in both Wps : Mr.V.Sundareswaran

For Respondents : Mr.K.Venkatesh
in both WPs Government Advocate

COMMON ORDER

Heard Mr.V.Sundareswaran, learned counsel appearing for the petitioner and Mr.K.Venkatesh, learned Government Advocate appearing for the respondents. With the consent on either side, the writ petitions are taken up for final disposal.

2. The petitioner, who is an Asset Reconstruction Company India Limited, is before this Court challenging a revision of assessment under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the Assessment years 2009-2010 and 2013-2014.

3.The learned counsel for the petitioner made an elaborate submission on the factual matrix and submitted that there has been a clear violation of principles of natural justice and the authority did not consider the objections etc. The provisions of the Tamil Nadu Value Added Tax Act is a separate Code by itself and providing hierarchy of remedies. Repeatedly, the Hob'ble Supreme Court has held that in tax matters, the dealer should not be allowed to bypass the statutory remedy available. The petitioner's case is that they wrongly registered themselves under the provisions of the Tamil Nadu Value Added Tax Act and remitted tax and that they will not fall under the definition of dealer as defined under the TNVAT Act and the authority did not consider the objections given by the petitioner.

4. In my considered view all these issues have to be agitated before the Appellate Authority as provided under the provisions of the Act and this Court finds that there is no justifiable reason to bypass the statutory alternate remedy available. Accordingly, the Writ Petitions are held not maintainable, giving liberty to the petitioner to file an appeal before the Appellate Authority and the period between 06.03.2017 till the date of receipt of the certified copy of this order shall be exclude for the purpose of computation of limitation by the Appellate Authority and the matter is to be proceeded in accordance with law. Registry is directed to return the original impugned order.

5.With the above observation, the Writ Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Deputy Commercial Tax Officer,
   Anna Salai Assessment Circle,
   PAPJM Buildings, 4th Floor,
   Greams Road, Chennai - 600 006.

2. The Assistant Commissioner (CT)
   Anna Salai Assessment Circle,
   PAPJM Buildings, 4th Floor,
   Greams Road, Chennai - 600 006.

+1cc to M/s.V.Sundareswaran, Advocate, S.R.No.46665
+1cc to the Government Pleader, S.R.No.46483

W.P.Nos.5965 & 5966 of 2017

SR(CO)
CU(01/08/2017)