IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P. No.24689 of 2017
&
WMP.No.26051 of 2017

Tvl.Venus Tiles,
rep. by its Proprietor,
N.Chandru, Shahin Vilas,
Block 'B', GF No.1,
4th Street, Raju Nagar,
Kovilambakkam,
Chennai - 600 117. ... Petitioner

Vs

The Assistant commissioner (CT),
Sholinganallur Assessment Circle,
Plot No.141, 1st Main Road,
Burma Colony,
Perungudi, Chennai - 600 096.
...Respondent

Prayer: Petition under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari calling for the records on the files of the respondent in TIN :33760927139/2011-12 dated 30.6.2017 and quash the same as being contrary to the principles of natural justice and that of the principle laid down by this Honourable court in the judgment reported in (2010) 33 VST 333 (Mds) (SRC Projects (P) Ltd. Vs. Commissioner of Commercial Taxes Chennai and another).

For Petitioner : Mr.R.Senniappan
For Respondent : Ms.Narmadha Sampath,
Special Government Pleader

O R D E R

Heard Mr.R.Senniappan, learned counsel appearing for the petitioner and Ms.Narmadha Sampath, learned Special Government Pleader, appearing for the respondent.

2. With the consent of the learned counsel on either side, this Writ Petition is taken up for disposal.

3. The petitioner is aggrieved by an order dated 30.6.2017 passed under the provisions of the Tamil Nadu Value Added Tax Act, 2006 for the Assessment year 2011-12.

4. Learned counsel for the petitioner strenuously contended that the impugned assessment order is contrary to the legal principles laid down by this Court in the case of SRC Projects (P) Ltd., Vs. Commissioner of Commercial Taxes, Chennai and another reported in (2010) 33 VST 333 (Mds). Further it is submitted that the impugned order of assessment issued by the respondent is liable to be set aside as it has been passed relying on materials collected behind the back of the petitioner.

5. On a perusal of the impugned order of assessment, it is seen that the petitioner has been given sufficient opportunity to place all the materials before the Assessing Officer. The petitioner has availed such opportunity and the Assessing Officer has considered the objections raised and pointed out the undisputed documents which show that the transactions have taken place from Gujarat to the petitioner's place. If the petitioner has a different case to plead on facts, then the petitioner should produce necessary documents and if they are produced and the same required to be appreciated or re-appreciated, which is a factual exercise. Therefore, the petitioner cannot state that the impugned order has been passed without jurisdiction and authority of law. The petitioner has to necessarily avail the appeal remedy as per the provisions of the Act. Unless and until the petitioner approach the appeal authority re-appreciating the facts, the judgment referred by the petitioner cannot be made applicable to the facts of the case. Therefore, I find this is not a case where a writ petition can be entertained.

6. For the above reasons, it is held that the writ petition is not maintainable and the same is dismissed. The petitioner is given liberty to file appeal before the Deputy Commissioner of Commercial Tax, Chennai, (East), and if such appeal is filed within 15 days from the date of receipt of copy of this order, the Appellate Authority shall entertain the appeal without rejecting the same, on the grounds of limitation. Accordingly, the writ petition stands dismissed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

sli

To

The Assistant commissioner (CT),
Sholinganallur Assessment Circle,
Plot No.141, 1st Main Road,
Burma Colony,
Perungudi, Chennai - 600 096.

Copy to
The Section Officer
V.R. Section, High Court, Madras.

+1 CC to Mr.R. Senniappan, Advocate sr 67415.

W.P. No.24689 of 2017

MR(CO)
sp(13/10/2017)