IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.10.2017

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Writ Petition No.27575 of 2017
and
W.M.P. Nos.29500 & 29501 of 2017

M/s. Archana Enterprises,
rep.by its proprietor - S.Selvakumar ...Petitioner

Vs.

State Tax Officer, Arisipalayam Circle,
Salem, Salem District. ...Respondent

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN 33892841702/2014-2015 dated 21.08.2017 and quash the same as illegal and contrary to the scheme of the act and pass orders.

For Petitioner : Mrs. R.Hemalatha
For Respondent : Mrs. Narmada Sampath, SGP

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Heard Mrs. R. Hemalatha learned counsel for the petitioner and Mrs.Narmada Sampath, learned Special Government Pleader accepting notice for the respondent.

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2. The petitioner has filed this writ petition challenging the order of assessment dated 21.08.2017 under the provisions of the Tamil Nadu Value

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Added Tax Act, 2006 for the year 2014-2015.

3.The petitioner has raised various factual contentions in the affidavit filed in support of the writ petition, which have been reiterated by the learned counsel for the petitioner before this Court. Unfortunately, these factual issues, ought to have been pleaded before the Assessing Officer by filing proper objections to the revision notice dated 26.09.2016. The petitioner did not file any objections and therefore, the respondent has passed the impugned assessment order. Instead of preferring an appeal as against the said order, the petitioner thought fit to approach the Assessing Officer and filed a petition under Section 84 of the said Act stating that there is a error in the order, as the respondent did not furnish the requisite particulars etc. The respondent rejected the petition filed under Section 84 of the said Act stating that he cannot exercise his jurisdiction under the said provision. Therefore, the petitioner is before this Court.

4. As pointed out earlier, the petitioner did not file objections to the revision notice dated 26.09.2016. Thus, the appropriate course of action that should have been adopted by the petitioner is to prefer an appeal as against the assessment order dated 21.08.2017 and before the Appellant Authority, the petitioner can raise all contentions and the Appellant Authority is entitled to appreciate and re-appreciate the documents, books of accounts etc. Without doing so, the petitioner approached the Assessing Officer under Section 84 of

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the said Act. Thus, considering the peculiar and factual circumstances of the case, this Court is of the view that the petitioner can be granted liberty to file an appeal challenging the assessment order dated 21.08.2017 regardless of the fact that the petitioner has approached the Assessing Officer by filing the petition under Section 84 of the said Act.

5. Thus, for the above reasons this Court is not inclined to entertain the writ petition and accordingly the same is dismissed. No costs. Consequently, the connected WMPs are also dismissed. The petitioner is granted liberty to file appeal before Appellate Assistant Commissioner challenging the assessment order dated 21.08.2017 for the year 2014-2015 and if such an appeal is filed within a period of 30 days from the date of receipt of a copy of this order, the Appellant Authority shall entertain the appeal without reference to the question of limitation or the order passed under Section 84 of the said Act dated 18.09.2017 and decide the matter on merits without further delay and in accordance with law.

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Index:Yes/No
Internet:Yes/No
Speaking order/Non-speaking order
To,
State Tax Officer, Arisipalayam Circle, Salem, Salem District.

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T.S.SIVAGNANAM,J

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