IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2017

CORAM

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

Writ Petition Nos.18306 to 18308 of 2017
&
W.M.P.Nos.19868 to 19872 of 2017

M/s.Mcnally Bharath Engineering Company Ltd.,
(Represented by its Vice President (Finance & Accounts)
No.42-A, Ezhaimariamman Koil Street
Muthialpet, Puducherry- 605 003 ... Petitioner

vs

1. The Commercial Tax Officer
Karaikal Assessment Circle
1st Floor, Perunthalaivar Kamarajar Administrative Complex
Nagore Road, Mathagadi
Karaikal- 609 602
Puducherry

2.M/s.Marg Ltd.,
No.81/A First Floor
Maideen Palli Street
Karaikal, Puducherry

3.The Commercial Tax Officer-I
2nd Floor, Commercial Tax Complex
100 Feet Road, Pudupalayam
Ellaipillaichavady
Puducherry – 605 005

4.Appellate Assistant Commissioner (CT)
3rd Floor, Commercial Taxes Complex
100 Feet Road, Pudupalayam
Ellaipillaichavady
Puducherry – 605 005

5.Commissioner of Commercial Tax
1st Floor
100 Feet Road
Ellaipillaichavady
Puducherry – 605 005

6.Government of Puducherry
Represented by its Secretary to Govt. (CT)
Beach Road, French Consulate Office
Puducherry- 605 001 ... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records relating to the Impugned Order in Appeal No.15/CST/2015-16/AAC dated 12.06.2017 passed by the 4th respondent and quash the same.

For Petitioner in all WPs	:	Mr.Raghavan Ramabadran
For Respondents in all WPS	:	Mr.T.P.Manoharan Senior counsel for Mr.J.Kumaran Govt. Advocate for R1, R3 to R6 Mr.V.J.Arul Raj for R2

ORDER

Heard Mr.Raghavan Ramabadran, learned counsel for the petitioner and Mr.T.P.Manoharan, learned senior counsel appearing for Mr.J.Kumaran, learned Government Advocate (Pondicherry) for the respondents.

2. With the consent on either side, the writ petitions itself are taken up for disposal.

3. The petitioners are aggrieved by common order passed by the fourth respondent, namely Appellate Assistant Commissioner (CT), Commercial Taxes Complex, Puducherry in Appeal Nos.10/CST/2015-16/AAC, 11/CST/2015-16/AAC and 15/CST/2015-16/AAC for the Assessment year 2015-16. As against the impugned order, the petitioner has an effective alternative remedy of filing an appeal before the Tribunal, which is the Court of the Chief Judge of Puducherry and without resorting to such remedy, the petitioner is before this Court.

4.After elaborately hearing the learned counsel on either side and after carefully perusing the materials placed on record, I find that to consider the correctness of the impugned order, it would be necessary to adjudicate into the factual matrix, much of which is being disputed by the petitioner. The Tribunal, being a creature of the statute, vested with powers to appreciate and re-appreciate the evidence on record before the Appellate Assistant Commissioner. The remedy before the Tribunal is efficacious and effective especially in tax matters. The assessee should not be permitted to bypass the hierarchy of remedy provided under the Act, which has been provided with a certain purpose. It appears that impugned order has been challenged raising various factual and legal contentions and not on technical grounds or violation of principles of natural justice. Therefore, this is a fit case in which the petitioner shall be relegated to avail the appellate remedy available in Puducherry Value Added Tax Act, 2007.

5. Thus, for the above reasons, these writ petitions are held to be not maintainable. However, taking into consideration the fact the petitioner has filed these writ petitions on 12.07.2017 well within the period of limitation of filing an appeal, this Court is inclined to grant liberty to the petitioner to file appeals before the Appellate Tribunal with a further direction to the Tribunal to take up the appeals without reference to limitation.

Accordingly, these writ petitions are disposed of with a direction to the petitioner to file appeals before the Appellate Tribunal within a period of 30 days from the date of receipt of a copy of this order. The appellate Tribunal shall entertain the appeals without reference to limitation. No costs. Consequently, the connected miscellaneous petitions are closed.

06.12.2017

Speaking/Non-speaking order
Index: yes/no
gpa

Note: Registry is directed to return the original impugned order.

To

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T.S.SIVAGNANAM.J.,

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