BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **23.03.2017**
CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A.[MD].No.263 of 2017
and
C.M.P.[MD].No.2686 of 2017

Tvl.Shri Siddhivinayaga Tex India(P). Ltd.,
Represented by its Director,
Ottanagampatty, Vedasandur Road,
Vedasandur,Dindigul District. : Appellant

Vs.

The Additional Commercial Tax Officer,
Dindigul(Rural) Assessment circle,
Dindigul. : Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 06.02.2017 made in W.P.(MD).No.1740 of 2017, on the file of this Court.
Prayer in WP(MD). 1740/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records in TIN: 33305263098 for the assessment year 2014-1015 on the file of the respondent dated 15.12.2016 and quash the same as illegal and error of law and direct the respondent to pass the order in accordance with the law by considering the documents submitted by the petitioner at the time of personal hearing.

For Appellant : Mr.A.Thiyagarajan,
Senior Counsel
For Mr.S.Karunakar

For Respondent : Mr.R.Karthikeyan
Additional Government Pleader

JUDGMENT
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[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.]**

Heard Mr.A.Thiyagarajan, learned Senior Counsel, for Mr.S.Karunakar, learned counsel for the appellants and Mr.R.Karthikeyan, learned Additional Government Pleader appearing for the respondent.

2. This Writ Appeal is directed as against the order dated 06.02.2017, made in W.P.(MD)No.1740 of 2017. The Writ Petition was filed challenging the assessment order under the provisions of the Tamil Nadu Value Added Tax Act, 2006, [hereinafter referred to as "the Act"] for the assessment year 2014 - 2015. The Writ Court, after elaborately considering the submissions made on behalf of the appellant, dismissed the Writ Petition, holding that the order passed by the Assessing Officer is a detailed order and there is no violation of principles of natural justice and therefore, the contentions raised by the dealer being factual, the appellant has to approach the Appellate Authority under the provisions of the Act and the Writ Court had also granted time for the appellant to approach the Appellate Authority and stipulated an outer time limit for the appeal to be disposed of within four months.

3. The learned Senior Counsel for the appellant vehemently contended that the assessment order, impugned before the Writ Court, is an outcome of non-application of mind and merely because the order is a sixteen page order, it cannot be treated to be an order with reasons. Further, it is submitted that the assessment has been made merely on the guesswork and the order is without jurisdiction.

4. The learned Additional Government Pleader appearing for the respondent would contend that adequate opportunity of personal hearing was granted to the dealer to file their objections to the revision notice. But, the dealer had failed to avail the opportunity to produce records. Further, it is the Department, which has detected the purchase omission and it is not a case of invoking Section 12 of the Act.

5. After hearing the learned counsel for the parties and carefully perusing the materials placed on record and in particular, the order of assessment, we find that the order is a reasoned order and the contentions raised by the appellant in this Writ Appeal are all factual. It is the settled legal position that in taxation matters, the Court should be very slow in interfering with the assessment orders and should direct the dealer to avail the hierarchy of statutory remedies available under the Act and not to permit them to bye-pass such remedy, which is not only efficacious, but also effective.

6. The learned Senior Counsel for the appellant submitted that without due application of mind to the facts and circumstances of the case and without properly considering the sales details, as per the book of accounts in form WW submitted by the auditor, the assessment has been completed. If, according to the appellant, there is any error, which is apparent on the face of the order, then, statute provides remedy under Section 84 of the Act and that by itself cannot be a reason to file the Writ Petition against the

assessment order. Furthermore, as observed by the learned single Judge, the appeal remedy available under the Act is an efficacious remedy.

7. For the above reasons, we are not inclined to interfere with the order passed by the learned Single Judge. Therefore, the Writ Appeal is dismissed and liberty is granted to the appellant to file an appeal before the Appellate Authority and if such an appeal is filed, within a period of fifteen days from the date of receipt of a copy of this Judgment, the Appellate Authority shall entertain the appeal, without reference to the limitation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

The Additional Commercial Tax Officer,
Dindigul(Rural) Assessment circle,
Dindigul.

+1 cc to Mr.S.Karunakar , Advocate in SR.No. 17126
+1 cc to Special Government Pleader in SR.No:17895

NB
VB/SKN/RSK/05.04.2017/3P/4C

JUDGMENT MADE IN
W.A.[MD].No.263 of 2017
23.03.2017