IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

Delivered on: 17-04-2017

Coram:

The Honourable Mr. Justice V.RAMASUBRAMANIAN
and
The Honourable Ms. Justice J.UMA DEVI

Writ Petition No.12428 of 2017

Between:

M/s. MSR Granite Metals Pvt. Ltd., D.No.75-6-15,
Karthik Enclave Near Anand Sweets, Prakash Nagar,
Rajahmundry, East Godavari District,
Represented by its Director Mr. M. Ammi Reddy

… Petitioner

Vs.

1. The State of Andhra Pradesh,
   represented by its Principal Secretary (Revenue)
   (CT-II) Department, Secretariat Buildings,
   Velagapudi, Amaravathi, Guntur District.

2. The Commercial Tax Officer,
   Aryapuram Circle, Rajahmundry,
   East Godavari District.

.. Respondents

For Petitioner : Mr. P. Girish Kumar

For Respondents : Mr. S. Suribabu
standing counsel

HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

HON'BLE MS. JUSTICE J. UMA DEVI

Writ Petition No.12428 of 2017

ORDER: (V. Ramasubramanian, J)

The petitioner has come up with the above writ petition challenging an order of assessment passed way back on 29.03.2006.

2. Heard Mr. P. Girish Kumar, learned counsel for the petitioner and Mr. S. Suribabu, learned special standing counsel for the Department.

3. As against the impugned order of assessment dated 29.03.2006, the petitioner filed a statutory appeal, but the same was dismissed on 06.10.2016, on the ground that the appeal was filed beyond the period condonable by the Appellate Authority. Therefore, the petitioner filed further appeal before the Tribunal. The Tribunal dismissed the appeal on the ground that when the statute prescribed a period up to which an authority could condone the delay, the refusal to condone the delay beyond the said period cannot be taken exception too.

4. As against the order of the Tribunal dated 15.09.2014 dismissing the appeal on the above ground, the petitioner came up with a revision in TREVC.No.3 of 2017. The said revision was dismissed by this Court by an order dated 28.02.2017.

5. Having thus exhausted all the remedies available under the Act, the petitioner has now come up with a challenge to the Original Order of assessment passed about 11 years ago.

6. The contention of Mr. P. Girish Kumar, learned counsel for the petitioner is that there was a clerical and arithmetical error in arriving 30% of the works contract turn over and that the 2nd respondent did not even consider the TDS certificates to the tune of Rs.2,23,200/-, in respect of which he is entitled to set off under Section 5H (6) of the Act. Therefore, this is a case, according to the petitioner, where a gross injustice has been done to the petitioner imposing twice burden.

7. We have carefully considered the above submissions.

8. It is true that when the alternative remedies available under the Act, could not be effectively availed by an assessee, on account of delay or non-compliance with the pre-deposit conditions, the orders passed by the First Appellate or Second Appellate or Revisional authorities, do not merge with the Original Order. But it is not in every case that we can allow original order to be challenged on the above ground in a writ petition under Article 226 of the Constitution of India after a series of remedies have gone against the petitioner.

9. The contention that a gross injustice has been done to the petitioner, may be correct. But it is not every gross injustice that the Court is capable of remedying under Article 226 of the Constitution of India. If this is allowed to be done, the same would only be one

more avenue not found in the Act for every person to assail an order on some ground or the other. Therefore, we are unable to entertain the writ petition.

Accordingly, the writ petition is dismissed. There will be no order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

V. RAMASUBRAMANIAN, J

J. UMA DEVI, J

Date: 17-04-2017

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