In the High Court of Judicature at Madras

Dated : 04.6.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.11871 of 2018 & WMP.No.13854 of 2018

M/s.Maruthi Traders,
rep.by its Proprietor ...Petitioner

Vs

1.The Joint Commissioner (ST),
Coimbatore Division, Coimbatore.

2.The Commercial Tax Officer, Perur
Assessment Circle, Coimbatore. ...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the proceedings of the first respondent in L.Dis.232/2018/B1 dated 22.1.2018 and quash the same.

For Petitioner : Mr.C.Baktha Siromani
For Respondents : Mrs.G.Dhana Madhri, GA

ORDER

Mrs.G.Dhana Madhri, learned Government Advocate accepts notice for the respondents. Heard both. By consent, the writ petition itself is taken up for final disposal.

2. The petitioner has challenged an order passed by the first respondent under Section 54 of the Tamil Nadu Value Added Tax Act, 2006, by which, the revision petition filed by the petitioner has been rejected as not maintainable, as the petitioner has to prefer an appeal before the Appellate Authority in terms of the observations made by the Hon'ble Division Bench in W.A.Nos.1318 to 1321 of 2017 dated 31.10.2017.

3. Earlier, the petitioner filed writ petitions in W.P.Nos.21322 to 21325 of 2016 challenging the assessment orders dated 06.1.2016 for the years 2012-13 to 2014-15 as well as 2007-08. This Court, by a common order dated 30.6.2016, dismissed the said writ petitions on the ground that it is open to the petitioner to seek for rectification of the orders of assessment under Section 84 of the said Act or file an appeal before the Appellate Authority.

4. Not satisfied with the observations made by this Court in the said order, the petitioner preferred appeals before the Hon'ble Division Bench of this Court in W.A.Nos.1318 to 1321 of 2017, which were dismissed on 31.10.2017. After the appeals were dismissed, the learned counsel for the petitioner submitted before the Hon'ble Division Bench that the petitioner would resort to the remedy available under the Statute. The said submission of the learned counsel for the petitioner was placed on record and two weeks' time was granted to the petitioner to pursue such a remedy and the original impugned orders (in the writ petitions) were directed to be handed over to the petitioner. Unfortunately, the petitioner did not avail either of the two options, which the Writ Court had granted as confirmed by the Hon'ble Division Bench, but chose to file a revision petition before the first respondent under Section 54 (1) of the said Act.

5. The learned counsel for the petitioner now seeks liberty from this Court to approach the Assessing Officer under Section 84 of the said Act by way of a rectification petition.

6. Unfortunately, such a liberty cannot be granted, since the common order passed in the earlier writ petitions dated 30.6.2016 is merged with the judgment of the Hon'ble Division Bench dated 31.10.2017. As pointed out earlier, the petitioner, having not availed either of the remedies, which were granted by the Writ Court in the common order dated 30.6.2016, is now attempting to get over the said order by filing the present writ petition. This Court finds no reason to entertain the writ petition on the grounds raised by the petitioner.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected WMP is also dismissed.

8. It is needless to state that as against the impugned order, the petitioner has a revisional remedy before the Additional Commissioner of Commercial Taxes under Section 57 of the said Act. If the petitioner avails such a remedy within a period of 30 days from the date of receipt of a copy of this order, the Second Revisional Authority shall entertain the revision petition without rejecting the same on the ground of limitation.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To
1.The Joint Commissioner (ST), Coimbatore Division, Coimbatore.
2.The Commercial Tax Officer, Perur Assessment Circle,
Coimbatore.

+1cc to Special Government Pleader(Taxes) sr.no.34774

WP.No.11871 of 2018&
WMP.No.13854 of 2018

nr 12/06/2018