In the High Court of Judicature at Madras

Dated : 05.2.2018

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.2411 of 2018 & WMP.Nos.2925 & 2926 of 2018

M/s.Sri Textile Erode Private Ltd.,
rep.by its Director V.Padmavathy ...Petitioner

Vs

The Assistant Commissioner (ST),
Park Road Circle, Erode, Erode
District. ...Respondent

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records on the file of the respondent in his impugned proceedings made in TIN No.33602862377/2013 -14 dated 16.11.2017 and quash the same as illegal and contrary to the scheme of the Act.

For Petitioner : Mrs.R.Hemalatha
For Respondent : Ms.G.Dhana Madhri, GA

ORDER

Ms.G.Dhana Madhri, learned Government Advocate accepts notice for the respondent. Heard both.

2. The petitioner is a registered dealer on the file of the respondent under the provisions of the Tamil Nadu Value Added Tax Act, 2006. The petitioner is aggrieved by the impugned assessment order for the year 2013-14 dated 16.11.2017.

(2)

3. After some arguments, the learned counsel for the petitioner would agree with the opinion expressed by this Court that complicated factual issues are involved in this case. Apart from that, the circular issued by the Commissioner of Commercial Taxes dated 04.11.2015, which was relied upon by the petitioner, restricts the benefit of non deduction of TDS only in respect of three categories of manufacturers namely proprietary concern, partnership firm and Hindu undivided families. The petitioner is a private limited company. Thus, the

petitioner has to necessarily avail the appeal remedy available under the Statute, since the petitioner has to prove before the Appellate Authority by producing records to substantiate their contention, more so, the finding rendered by the Assessing Officer that though copies of bills, ledger extracts and payment details were stated to be enclosed along with the reply filed by the petitioner, they were not actually enclosed. For the above reasons, the writ petition is held to be not maintainable.

4. Accordingly, the writ petition is dismissed giving liberty to the petitioner to file an appeal before the Appellate Authority. The petitioner is granted 15 days' time from the date of receipt of a copy of this order to file the appeal. No costs. Consequently, the connected WMPs are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (ST),
Park Road Circle, Erode, Erode District.

+1 cc to M/s.Hemalatha Advocate sr 8318
+1 cc to Special Government Pleader Taxes sr 8968

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