

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2018

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.19566 of 2018 &
W.M.P.No.22999 of 2018

Skycon Solutions Private Limited
Rep. by its Managing Director
Mr.Daniel Deepak Kumar
No.31/22, Victoria Crescent Road
Egmore, Chennai-600 008. .. Petitioner

vs

The Additional Commissioner of CGST & Central Excise
O/o.The Principal Commissioner of CGST & Central Excise
Chennai North Commissionerate
No.26/1, Mahatma Gandhi Road
Chennai-600 034. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in order in Original No.07/2018- CH.N(ADC), dated 25.01.2018 bearing reference C.No.V/15/97/2017-GST Ch.N-Adj and quash the same.

For Petitioner : Mr. R.Senniappan

For Respondent : Ms.R.Hemalatha
Senior Standing Counsel

ORDER

Heard Mr. R.Senniappan, learned counsel for the petitioner and Ms.R.Hemalatha, learned Senior Standing Counsel for the respondent.

2. The petitioner has filed this writ petition challenging the order- in-Original No.07/2018-CH.N(ADC), dated 25.01.2018, by which, the payment of service tax as proposed in the show cause notice was confirmed along with interest and penalty.

3. Admittedly, as against the impugned order, the petitioner has an effective alternative remedy of filing an

appeal before the Commissioner of Appeals-I, Chennai. The petitioner has to necessarily avail the appeal remedy provided under the statute and should not be permitted to bypass the same.

4. The learned counsel for the petitioner submits that the petitioner has taken over the said company, in fact, this factual position appears to have brought to the notice of the respondent and has been taken note of in paragraph 6 of the impugned order. Thus, the petitioner has to pursue the appeal remedy available under the statutory provisions.

5. In the result, the writ petition is dismissed not maintainable. However, the petitioner is granted liberty to file an appeal before the Appellate Authority, within a period of 30 days from the date of receipt of a copy of this order and if the appeal is filed within the time permitted, the appellate authority, shall entertain the appeal without rejecting the same on the ground of limitation. It is open to the petitioner to canvass all contentions before the appellate authority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Rj

To

The Additional Commissioner of CGST & Central Excise
O/o.The Principal Commissioner of CGST & Central Excise
Chennai North Commissionerate
No.26/1, Mahatma Gandhi Road
Chennai-600 034.

+1cc to Mr.R.Hemalatha, Advocate, S.R.No.53020

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NA(CO)
GSP(16/08/2018)