**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 20.06.2018**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU**
**and**
**THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**W.A.(MD) Nos.273, 274 & 275 of 2018**
**and**
**C.M.P.(MD) No.1633, 1634 & 1635 of 2018**

Tvl.Sri Meenakshi Pharma
rep.by its Partner S.Muthiah
28A, Shivaji Nagar Membalam
Thanjavur ... Appellant / Petitioner in all writ appeals

-vs-

The Commercial Tax Officer (CT)
Thanjavur II Assessment Circle
Thanjavur ... Respondent / Respondent in all writ appeals

**COMMON PRAYER:** Writ Appeals filed under Clause 15 of Letters Patent to set aside the common order, dated 07.09.2017, respectively made in W.P.(MD) Nos.16931, 16932 & 16933 of 2017.

Prayer in WP(MD). 16931/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the respondent in TIN/33413823218/2011-12 dated 31.01.2017 and quash the same as arbitrary, illegal.

Prayer in WP(MD). 16932/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the respondent in TIN/33413823218/2013-14 dated 31.01.2017 and quash the same as arbitrary, illegal.

Prayer in WP(MD). 16933/ 2017 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records of the respondent in

TIN/33413823218/2012-13 dated 31.01.2017 and quash the same as arbitrary, illegal.



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| For Appellant (in all appeals) | : | Mr.D.Venkatesh |
| For Respondent (in all appeals) | : | Mr.V.R.Shanmuganathan Special Government Pleader |

**C O M M O N   J U D G M E N T**

**[Judgment of the Court by K.RAVICHANDRABAABU, J.]**

All these three writ appeals are arising out of a common order, dated 07.09.2017, dismissing the writ petitions in W.P.(MD) Nos.16931, 16932 & 16933 of 2017, filed by the appellant herein, on the reason that the appellant has challenged the impugned orders of assessment by way of filing writ petitions that too after a lapse of eight months.

**2.** Heard the learned counsel for the appellant and the learned Special Government Pleader for the respondent.

**3.** Admittedly, the writ petitions were filed challenging the impugned orders of assessment passed by the original Authority. The issue involved in this matter is with regard to reversal of the input tax credit. There is no dispute to the fact that as against the order of assessment, the aggrieved party is having statutory appeal remedy before the concerned Appellate Authority and such appeal has to be filed within the time prescribed under the statute. In this case, the assessee / writ petitioner, instead of filing such appeal before the concerned Appellate Authority, has chosen to file the writ petitions, that too after a lapse of eight months from the date of the assessment orders. Therefore, the Writ Court has rightly dismissed the writ petitions with which, we do not find any reason to interfere. It is well settled that in fiscal matters, filing writ petitions straightaway as against the order of the original Authority cannot be entertained, more particularly, when statutory appeal remedy is provided to the aggrieved party to challenge such orders of the original Authority before the next fact finding authority viz., Appellate Authority.

**4.** The learned counsel for the appellant fairly submitted that the appellant will file such statutory appeals before the concerned Authority, if liberty is given to the appellant to do so. He further submitted that since the appellant, during the pendency of the appeals, in pursuant to an interim order passed on 27.02.2018, deposited 25% of the demand, the Appellate Authority may be directed to take up the appeals and consider the same on merits and in accordance with law by taking note of the deposit already made by the appellant.

**5.** The learned Special Government Pleader is not having any serious objection for considering the above submissions, since the appellant is willing to approach the Appellate Authority and challenge the impugned orders of assessment of the original Authority.

**6.** Accordingly, these writ appeals are dismissed, however, by granting liberty to the appellant to file statutory appeals before the concerned Appellate Authority, within a period of two weeks from the date of receipt of a copy of this Judgment. If such appeals are filed within the above stipulated time, the concerned Appellate Authority shall consider the appeals and decide the same on merits and in accordance with law, without reference to the period of limitation and also without insisting upon any pre-deposit in view of the admitted fact that the appellant has already deposited 25% of the demand during the pendency of the present appeals. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Deputy Registrar
(Lok Adalat/Mediation & concilation)

/True Copy/

Sub Assistant Registrar

To:
1.The Commercial Tax Officer (CT),
Thanjavur II Assessment Circle,
Thanjavur.

2.The Section Officer,
E.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 cc TO Mr.D.Venkatesh , Advocate in SR No. 68902
+ 1 cc TO The Special Government Pleader in SR No. 69104

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AE/SKN RSK/SAR1/02.07.2018/3P/5C

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