IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 27-08-2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.No.2844 of 2019

M/s.JVC Graphics & Signages Pvt.Ltd., ...Appellant/Petitioner

-vs-

The Additional Commissioner,
Office of the Commissioner of GST &
Central Excise,
Chennai South Commissionerate,
Nandanam,
Chennai-600 035. ...Respondent/Respondent

Appeal under Clause 15 of the Letters Patent against the Order, dated 09.11.2018, passed in W.P.No.29484 of 2018 on the file of this Court.

Prayer in W.P.No.29484 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to Order in Original No.21 & 22/2018 - ADC dated 02.04.2018 passed by the respondent herein and to quash the same, insofar as the said impugned order has been passed in total violation to the principles of natural justice, without jurisdiction and in excess of the authority conferred on the said respondent.

For Appellant : Mr.N.Viswanathan

JUDGMENT

(By Dr.Vineet Kothari,J.)

M/s.JVC Graphics & Signages Pvt.Ltd. has filed this Intra Court Appeal aggrieved by the order, dated 09.11.2018, passed by the learned Single Judge in W.P.No.29484 of 2018, dismissing the Writ Petition filed by the writ petitioner, who is the appellant herein, against the order passed by the Adjudicating Authority, namely, the respondent, on 02.04.2018, raising the demand of Excise Duty on printing of Signages (Sign Boards), Printed Digital Flex, Pylon Signs, Glow Signs etc., and supplying the same to various customers, like M/s.Reliance Retail, M/s.Arvind Styles, M/s.3M India etc.

2. The learned Single Judge, by the order impugned before us, directed the appellant to file a regular appeal before the Commissioner (Appeals), provided under the Statute, with the following observations :

> ''8. Accordingly, without expressing any view on the merits and contentions raised by the petitioner as well as the Adjudicating Authority in the impugned order, this Writ Petition is disposed of, only by granting liberty to the petitioner to file a statutory appeal before the next fact finding authority viz., The Commissioner (Appeals), within a period of four weeks from the date of receipt of a copy of this order. If any such appeal is filed by complying with the other statutory requirements within the time stipulated supra, the Appellate Authority shall consider the same and pass orders on its own merits and an accordance with law without reference to the period of limitation. No costs. Connected miscellaneous petition is closed.''

3. Mr.N.Viswanathan, learned counsel for the appellant, has submitted that two important questions were raised before the Adjudicating Authority as well as the learned Single Judge viz., (i) lack of jurisdiction of the authority concerned to pass the order, as supplying of Sign Boards was made at the places outside the territorial jurisdiction of the Adjudicating Authority, and (ii) the exigibility of Excise Duty on such Sign Boards. The learned counsel submitted that only the question of exigibility of Excise Duty has been touched upon by the learned Adjudicating Authority, but the issue of lack of territorial jurisdiction has not been looked into by him. He, therefore, submitted that the question of jurisdiction can be raised in the Writ Petition and the learned Single Judge has erred in dismissing the Writ Petition by relegating the appellant to the alternative remedy, for which, there is an onerous condition of pre-deposit.

4. Having heard the learned counsel for the appellant, we are not inclined to entertain this Writ Appeal, as we are of the opinion that the learned Single Judge was justified in relegating the appellant to the alternative remedy of the statutory appeal, provided under the law. No exceptional circumstances are found to allow such issues to be raised in Writ jurisdiction. Of course, the appellant is free to raise all the questions, including the question of lack of territorial jurisdiction, before the Appellate Authority, who is expected to

decide all the questions and objections, raised by the appellant.

5. We also note that this Writ Appeal is filed against the order of the learned Single Judge, dated 09.11.2018, as belatedly as on 9th June, 2019, after a gap of seven months.

6. Therefore, we dismiss this Writ Appeal and leave it free for the appellant to avail regular remedy by way of a statutory appeal.

7. Since the time limit for filing such an appeal may have expired, we direct, that, if such an appeal is filed within a period of six weeks from today, the appellate authority shall not raise any objection as to limitation, but, however, subject to compliance with other usual conditions, the said appeal may be disposed of on merits and in accordance with law.

8. No costs. Consequently, the connected C.M.P.No.18295 of 2019 stands closed.

Sd/-
Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

dixit

To

The Additional Commissioner,
Office of the Commissioner of GST &
Central Excise,
Chennai South Commissionerate,
Nandanam,
Chennai-600 035.

W.A.No.2844 OF 2019

NMI(CO)
SSM(23/09/2019).