IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2019

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.17749 of 2014

Lanco Infratech Ltd.,
Represented by Vice President
(Finance & Accounts)
Mr.Yegesh Indravadan Shah ...Petitioner

--Vs--

The Assistant Commissioner (CT)
T Nagar (East) Assessment Circle
No.46, Greenways Road,
Chennai 600028 ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ or order of direction or any other Writ in the nature Writ of Certiorari, calling for the records of the respondent in Assessment Order TIN 33641561488/2012-13 dated 30.04.2014 and quash the same.

For Petitioner : Mr.Joseph Prabakar

For Respondents : Ms.G.Dhana Madhri, GA

O R D E R

The petitioner challenges an order of assessment dated 30.04.2014, passed in terms of the Tamil Nadu General Sales Tax Act 1959 ('Act'). Inter alia, it had sought an interim stay of collection that was originally granted upon condition that 5% of the disputed tax be remitted.

2. When the matter came up thereafter on 26.07.2016, a learned Single Judge was of the view that a further 10% should be deposited by the petitioner and if such amount were not remitted, then the petition for stay will stand vacated.

3. The additional condition was imposed specifically noting that the petitioner had by-passed the statutory appellate remedy. The petitioner appears to have filed a writ appeal challenging the order of the learned Single Judge dated

26.07.2016. The writ appeal came to be dismissed by a Division Bench observing as follows:

> 3. The appellant without availing the statutory remedy of appeal, filed the writ petition in W.P.No.17749 of 2014 challenging the assessment order dated 30 April, 2014 on the file of the respondent. The learned Single Judge notwithstanding the alternative remedy available to the appellant, entertained the writ petition and granted interim stay subject to the condition that 5% of the tax amount shall be deposited. Subsequently, as a condition precedent for making the stay absolute, the learned Single Judge directed the appellant to pay 10% of the tax amount, in addition to the amount already paid. The said order is under challenge in this intra court appeal.
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> 4. The order under appeal is purely a discretionary order granted by the learned Single Judge for the purpose of making the stay absolute. It is not in dispute that notwithstanding the appeal remedy available to the appellant, the writ petition was filed. The learned Single Judge while exercising the discretion, originally directed the appellant to pay 5% of the tax amount and thereafter, 10% for the purpose of making the stay absolute. We do not find any illegality or irregularity in the order passed by the learned Single Judge warranting interference by exercising the discretionary jurisdiction.
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> 5. We grant four more weeks time to the appellant to deposit the 10% of the amount as directed by the learned Single Judge.

4. Even today when the matter is listed for hearing, learned counsel for the petitioner confirms that the extended time frame granted by the Division Bench has elapsed without there being any compliance of order directing additional payment, dated 26.07.2016.

5. I am thus of the view that no indulgence needs to be extended to this petitioner. In any event, no case has been made out pointing to any error in law in the impugned order. Recording the aforesaid and being of the view that there is no merit in this writ petition, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Assistant Commissioner (CT)
T Nagar (East) Assessment Circle
No.46, Greenways Road,
Chennai 600 028

+1cc to Mr.Joseph Prabakar, Advocate, S.R.No. 83580
+1cc to the Government Pleader(T), S.R.No. 84148

W.P.No.17749 of 2014

SSD(CO)
GN(27/11/2019)