IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2019

CORAM

THE HONOURABLE DR.JUSTICE VINEET KOTHARI
AND
THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.A.No.3915 of 2019
and
C.M.P.No.24622 of 2019

Tvl.Santhosh Cateres,
rep. by its Proprietor,
A.Santhosh Abraham,
No.88, Subramaniya Nagar,
Thirumullaivoyal,
Chennai 600 062. Appellant/Petitioner

Versus

The Assistant Commissioner (CT),
Thirumullaivoyal Assessment Circle,
27, Makkaram Garden,
Kolathur, Chennai 600 099. Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 26.7.2019 in W.P.No.22074 of 2019 passed by this court.

WP.No.22074 of 2019:Calling for the records on the files of the respondent TIN/33081358572/2014-15 dated 04/06/2019 and quash the same being illegal invalid without Jurisdiction and violated the principles of natural justice and contrary to the law or issue such other writ direction.

For Appellant : Mr.D.Vijayakumar

JUDGMENT

(Judgment of the court was made by Dr.VINEET KOTHARI, J.)

The present Writ Appeal is directed against the order passed by the learned Single Judge dated 26.7.2019, whereby the learned Single Judge dismissed the Petition which was directed against the Assessment Order passed against the Assessee for Assessment Year 2014-2015 on the provisions of the TNVAT Act 2006.

2. The learned counsel for the Appellant, Mr.D.Vijayakumar

urged that the learned Single Judge, while relegating the Petitioner/Appellant to the Appellate Authority, has made an observation on the merits of the case in para 15 of the impugned order that the filing of the wrong declaration by the Selling Dealer made the Purchasing Dealer viz., the present Petitioner liable to pay tax.

3. Having heard the learned counsel for the Appellant, we are of the opinion that once the Petitioner/Assessee is relegated to the Appellate authority to avail its alternative remedy by way of Appeal under TNVAT Act, then the observations made on merits of the case may affect the decision of the Appellate Authority in the Appeal on its own merits.

4. Therefore, while upholding the order of the learned Single Judge, giving liberty to the Petitioner/Appellant to avail its remedy by way of Appeal before the first Appellate Authority, we are inclined to observe that the observations on merits made by the learned Single Judge will not come in the way of the Petitioner/Assessee to put forth its case before the first Appellate Authority and the said Authority shall pass orders on merits and in accordance with law, uninfluenced by any observation made by the learned Single Judge on merits of the case.

5. The Appeal, if any, is filed within four weeks from today, it may be entertained without raising any objection with regard to the limitation, however, subject to fulfilment of other conditions.

6. With the above observations, the Writ Appeal is disposed of. No costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

ssk.

To:

1. The Assistant Commissioner (CT),
   Thirumullaivoyal Assessment Circle,
   27, Makkaram Garden,
   Kolathur, Chennai 600 099.

+1 cc to the Special Government Pleader sr106624
+1 cc to Mr.D.Vijayakumar Advocate sr105165

W.A.No.3915 of 2019

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