IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2019

CORAM:

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

W.A.Nos.4055, 4063 and 4066 of 2019

Gestamp Automative Chennai Pvt. Ltd.,
rep. By its Authorized Signatory,
V.Subramanian ... Appellants in above appeals

Vs.

1.The Assistant Commissioner (ST)
Thirukazhukundram Assessment Circle,
for backyear Sriperumbadur Assessment Circle,
No.42, Wahab Nagar,
Thirukazhukundram

2.The Assistant Commissioner (ST)
Sriperumbadur Assessment Circle,
No.4/109, Varadharajapuram,
Nazarathpet, Chennai 123. ..Respondents in above appeals

Writ Appeals filed against the order passed by this Court dated 5.9.2019 in WP Nos.26524, 26531, 26527 of 2019.

Prayer in WP.Nos.26524,26531 and 26527 of 2019 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari, calling for the records of the first respondent in his proceedings in TIN Nos.33281667319/2015-2016, 33281667319/2013-2014 and 33281667319/2014-2015 respectively, dated 12.07.2019 and quash the same as illegal.

For Appellant : Mr.N.Murali
For Respondents : Mr.Mohammed Shaffiq,
Special Government Pleader

COMMON JUDGMENT
(made by DR.VINEET KOTHARI, J.)

The present writ appeals are directed against the order passed by the learned Single Judge in WP Nos.26524, 26531, 26527 of 2019, by order dated 5 September 2019, whereby the learned

Single Judge has dismissed the writ petitions filed by the Appellant/Assessee against the assessment order passed under the provisions of the Tamil Nadu Value Added Tax Act, on the ground that the Appellant/Assessee has got an effective and alternate remedy by way of appeal to the Tribunal and therefore, the writ petitions were not maintainable.

2. The learned Single Judge has given four weeks time to the Appellant/Assessee to file regular appeal against the impugned assessment order, subject to the compliance of the provisions for filing appeal.

3. The learned counsel for the Appellant urged before us that since there is no power to relax the pre-deposit or waiver of the 25% of the pre-deposit for entertaining the appeal, the remedy of appeal is onerous for the assessee. Reliance was placed on the judgment of the Supreme court in the case of Technimont Pvt. Ltd. (formerly known as Tecnimont ICB Pvt. Ltd., vs. State of Punjab and others, 2019 SCC Online SC 1228. The learned counsel submitted that the Appellate Authority may be directed to entertain the Appeal without any pre-deposit.

4. Having heard the learned counsel for the Appellant, we do not find any error in the order of the learned Single Judge, and dismissal of the writ petitions on the ground of availability of alternate remedy does not call for interference by this court.

5. The condition of pre-deposit for entertaining an appeal before the Appellate authority is a usual condition in Tax Laws and even in the absence of power to relax the pre-deposit, the provision can neither be said to be bad or the condition of pre deposit could be held to be onerous, per se.

6. Therefore, we do not find any merit in the Appeals and the same are liable to be dismissed. Accordingly, the Appeals are dismissed. No costs. Consequently, C.M.P.Nos.25424, 25426, 25465, 25471, 25474 of 2019 are also dismissed.

7. However, at the request of the learned counsel for the Appellant/ Assessee, we extend the period of four weeks for filing the Appeal as directed by the learned Single Judge by a further period of four weeks from today.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner (ST)
Thirukazhukundram Assessment Circle,
for backyear Sriperumbadur Assessment Circle,
No.42, Wahab Nagar,
Thirukazhukundram

2.The Assistant Commissioner (ST)
Sriperumbadur Assessment Circle,
No.4/109, Varadharajapuram,
Nazarathpet, Chennai 123.

+3cc to Mr.N.Murali, Advocate Sr.No.101826
+1 cc to The Special Government Pleader Sr.No. 102263

AKM/20.01.2020/3P-7C /

W.A.Nos.4055, 4063 & 4066 of 2019